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BILLS,

PUBLIC:

FOUR VOLUMES.

—(4.)—

POSTAGE

TO

WILLS.

Session

19 *February*——10 *September* 1835.

VOL. IV.

1835.

BILLS:

1835.

FOUR VOLUMES:—CONTENTS OF THE

FOURTH VOLUME.

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IX. AN ACT to apply a Sum of Eight Millions, out of the Consolidated Fund, to the Service of the Year One thousand eight hundred and thirty-five - - *(17 June.)*

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XI. AN ACT to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and for extending the Time limited for those Purposes respectively until the Twenty-fifth day of March One thousand eight hundred and thirty-six; to permit such Persons in *Great Britain* as have omitted to make and file Affidavits of the Execution of Indentures of Clerks to Attornies and Solicitors to make and file the same on or before the First day of Hilary Term One thousand eight hundred and thirty-six; and to allow Persons to make and file such Affidavits, although the Persons whom they served shall have neglected to take out their Annual Certificates - - - - - - - - - - - - *(3 July.)*

CAP. *Royal Assent.*

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XV. AN ACT to continue until the Thirty-first day of May One thousand eight hundred and thirty-eight, and to the End of the then next Session of Parliament, the Allowances of the Duty of Excise on Soap used in certain Manufactures - - - (21 *July.*)

XVI. AN ACT for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills *pro Confesso*, in *Ireland* - (30 *July.*)

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XVIII. AN ACT to exempt Carriages carrying Manure from Toll - (30 *July.*)

XIX. AN ACT to amend and consolidate the Laws relating to the Merchant Seamen of the United Kingdom, and for forming and maintaining a Register of all the Men engaged in that Service - - - - - - - - - - - - - (30 *July.*)

XX. AN ACT to consolidate certain Offices in the Collection of the Revenues of Stamps and Taxes, and to amend the Laws relating thereto - - - (30 *July.*)

XXI. AN ACT to amend and alter an Act of the Fifty-ninth year of His late Majesty King GEORGE the Third, for vesting in Commissioners the Line of Road from *Shrewsbury* in the County of *Salop* to *Bangor Ferry* in the County of *Carnarvon*; and for discharging the Trustees under several Acts of the Seventeenth, Twenty-eighth, Thirty-sixth, Forty-first, Forty-second, Forty-seventh and Fiftieth Years of his then present Majesty, from the future Repair and Maintenance thereof, and for repealing so much of the said Acts as affects the said Line of Road - - - - - - - - - - - (30 *July.*)

XXII. AN ACT to continue for Three Years, and from thence to the End of the then next Session of Parliament, Two Acts of the Second and Third year and the Third and Fourth year of His present Majesty, relating to the Care and Treatment of Insane Persons in *England* - - - - - - - - - - - - (21 *August.*)

XXIII. AN ACT for the Establishment of Loan Societies in *England* and *Wales*; and to extend the Provisions of the Friendly Societies Acts to the Islands of *Guernsey*, *Jersey* and *Man* - - - - - - - - - - - - (21 *August.*)

XXIV. AN ACT for the Encouragement of the voluntary Enlistment of Seamen, and to make Regulations for more effectually manning His Majesty's Navy - - - - - - - - - - - - (21 *August.*)

XXV. AN ACT to extend the Accommodation by the Post to and from Foreign Parts, and for other Purposes relating to the Post Office - - - - (21 *August.*)

XXVI. AN ACT for the Appointment of convenient Places for the holding of Assizes in *Ireland* - - - - - - - - - - - - (21 *August.*)

XXVII. AN ACT to continue and amend certain Regulations for the Linen and Hempen Manufactures in *Ireland* - - - - - - - - - - (21 *August.*)

XXVIII. AN ACT for removing Doubts as to the Declaration to be made and Oaths to be taken by Persons appointed to the Office of Sheriff of any City or Town being a County of itself - - - - - - - - - - - - (21 *August.*)

XXIX. AN ACT for investing in Government Securities a Portion of the Cash lying unemployed in the Bank of *England* belonging to Bankrupts' Estates, and applying the Interest thereon in discharge of the Expenses of the Court of Bankruptcy, and for the Relief of the Suitors in the said Court; and for removing Doubts as to the Extent of the Powers of the Court of Review and of the Subdivision Courts - - (21 *August.*)

XXX. AN ACT for protecting the Revenues of vacant Ecclesiastical Dignities, Prebends, Canonries and Benefices without Cure of Souls, and for preventing the Lapse thereof, during the pending Inquiries respecting the State of the Established Church in *England* and *Wales* - - - - - - - - - - - - (21 *August.*)

CAP. *Royal Assent.*

XXXI. AN ACT to give Effect and Validity to certain Contracts and Presentments for repairing and keeping in repair certain Public Roads in *Ireland*, and the Sureties entered into for the Execution thereof - - - - - - - - - - - - (21 *August.*)

XXXII. AN ACT to impose certain Duties on Tea - - - - (21 *August.*)

XXXIII. AN ACT for preventing the vexatious Removal of Indictments into the Court of King's Bench; and for extending the Provisions of an Act of the Fifth year of King WILLIAM and Queen MARY, for preventing Delays at the Quarter Sessions of the Peace, to other Indictments; and for extending the Provisions of an Act of the Seventh Year of King GEORGE the Fourth, as to taking Bail in Cases of Felony - - (21 *August.*)

XXXIV. AN ACT to amend Two clerical Errors contained in an Act passed in the Ninth year of the Reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for consolidating and amending the Laws in *Ireland* relative to Larceny and other Offences connected therewith" - - - - - - - - - - - (25 *August.*)

XXXV. AN ACT for consolidating the Offices of Paymaster General, Paymaster and Treasurer of *Chelsea* Hospital, Treasurer of the Navy, and Treasurer of the Ordnance - - - - - - - - - - (25 *August.*)

XXXVI. AN ACT to limit the Time of taking the Poll in Boroughs at contested Elections of Members to serve in Parliament to One Day - - - (25 *August.*)

XXXVII. AN ACT for the further Reduction of the Militia Staff, and to suspend the Ballot for the Militia - - - - - - - - - - - (25 *August.*)

XXXVIII. AN ACT for effecting greater Uniformity of Practice in the Government of the several Prisons in *England* and *Wales*; and for appointing Inspectors of Prisons in *Great Britain* - - - - - - - - - - - - (25 *August.*)

XXXIX. AN ACT to exempt certain Retailers of Spirits to a small Amount from the additional Duties on Licenses; and to discontinue the Excise Survey on Wine, and the Use of Permits for the Removal thereof - - - - - - - - - (31 *August.*)

XL. AN ACT to provide for the better Collection of the Duties on Wood the Produce of Places in *Europe* - - - - - - - - - - - (31 *August.*)

XLI. AN ACT to amend the Law relating to Securities given for Considerations arising out of gaming, usurious, and certain other illegal Transactions - - (31 *August.*)

XLII. AN ACT to authorize the granting of Superannuation Allowances to the Commissioners and Officers of the Courts for the Relief of Insolvent Debtors - (31 *August.*)

XLIII. AN ACT for enlarging the Powers of Magistrates in the Appointment of Special Constables - - - - - - - - - - - (31 *August.*)

XLIV. AN ACT for raising the Sum of Thirteen millions Five hundred twenty-one thousand Five hundred and fifty Pounds by Exchequer Bills, for the Service of the Year One thousand eight hundred and thirty-five - - - - - - (31 *August.*)

XLV. AN ACT to carry into further Execution the Provisions of an Act passed in the Third and Fourth years of His present Majesty, for compensating Owners of Slaves upon the Abolition of Slavery - - - - - - - - - - (31 *August.*)

XLVI. AN ACT to amend, until the End of the next Session of Parliament, an Act of the Second year of His present Majesty, for making Provision for the Despatch of the Business now done by the Court of Exchequer in *Scotland* - - - (31 *August.*)

XLVII. AN ACT to repeal so much of an Act passed in the Third and Fourth years of His present Majesty as relates to the Amount of the Salary granted to the Clerk of the Crown in Chancery; and to make other Provisions in relation to the said Office - - - - - - - - - - - (31 *August.*)

XLVIII. AN ACT for the better Prevention and more speedy Punishment of Offences endangering the Public Peace in *Ireland* - - - - - - (31 *August.*)

XLIX. AN ACT for continuing, until the First day of *June* One thousand eight hundred and thirty-seven, the several Acts for regulating the Turnpike Roads in *Great Britain* which will expire on the First day of *June* One thousand eight hundred and thirty-six, or with the next Session of Parliament - - - - - - - - (31 *August.*)

L. AN ACT to consolidate and amend the Laws relating to Highways in that Part of *Great Britain* called *England* - - - - - - - - - (31 *August.*)

LI. AN ACT for granting Relief to the Island of *Dominica*; and to amend an Act of the Second and Third years of His present Majesty, for enabling His Majesty to direct the Issue of Exchequer Bills to a limited Amount for the Purposes therein mentioned - - - - - - - - - - (31 *August.*)

LII. AN ACT to authorize the Court of Directors of the *East India* Company to suspend the Execution of the Provisions of the Act of the Third and Fourth WILLIAM the Fourth, Chapter Eighty-five, so far as they relate to the Creation of the Government of *Agra* - - - - - - - - - - (31 *August.*)

CAP. *Royal Assent.*

LIII. AN ACT to repeal an Act of the Ninth year of His late Majesty, for regulating the Carriage of Passengers in Merchant Vessels from the United Kingdom to the *British* Possessions on the Continent and Islands of *North America*; and to make further Provision for regulating the Carriage of Passengers from the United Kingdom (31 *August.*)

LIV. AN ACT to render certain Marriages valid, and to alter the Law with respect to certain voidable Marriages - - - - - - - - - (31 *August.*)

LV. AN ACT for facilitating the Appointment of Sheriffs in *Ireland*, and the more effectual Audit and passing of their Accounts; and for the more speedy Return and Recovery of Fines, Fees, Forfeitures, Recognizances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer in *Ireland*; and to amend the Laws relating to Grants in custodiam and Recovery of Debts in *Ireland*; and to amend an Act of the Second and Third years of His present Majesty, for transferring the Powers and Duties of the Commissioners of Public Accounts in *Ireland* to the Commissioners for auditing the Public Accounts of *Great Britain* - - - - - - - - - - - (9 *September.*)

LVI. AN ACT to regulate the Admeasurement of the Tonnage and Burthen of the Merchant Shipping of the United Kingdom - - - - - (9 *September.*)

LVII. AN ACT to extend to *Scotland* certain Provisions of an Act of the Ninth year of His late Majesty, to consolidate and amend the Laws relating to Savings Banks; and to consolidate and amend the Laws relating to Savings Banks in *Scotland* - - - - - - - - - - - - (9 *September.*)

LVIII. AN ACT to amend the Acts relating to the Hereditary Land Revenues of the Crown in *Scotland* - - - - - - - - - - - (9 *September.*)

LIX. AN ACT to consolidate and amend the several Laws relating to the cruel and improper Treatment of Animals, and the Mischiefs arising from the driving of Cattle, and to make other Provisions in regard thereto - - - - - - - (9 *September.*)

LX. AN ACT for carrying into effect a Treaty with the King of the *French* and the King of *Sardinia* for suppressing the Slave Trade - - - - - - (9 *September.*)

LXI. AN ACT for carrying into effect the Treaty with the King of the *French* and the King of *Denmark* for suppressing the Slave Trade - - - - (9 *September.*)

LXII. AN ACT to repeal an Act of the present Session of Parliament, intituled, "An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits;" and to make other Provisions for the Abolition of unnecessary Oaths - - - - (9 *September.*)

LXIII. AN ACT to repeal an Act of the Fourth and Fifth year of His present Majesty relating to Weights and Measures, and to make other Provisions instead thereof - - - - - - - - - - - (9 *September.*)

LXIV. AN ACT to alter certain Duties of Stamps and Assessed Taxes, and to regulate the Collection thereof - - - - - - - - - - (9 *September.*)

LXV. AN ACT for preventing the Publication of Lectures without Consent - - - - - - - - - - - (9 *September.*)

LXVI. AN ACT to amend the Law relating to the Customs - - (9 *September.*)

LXVII. AN ACT for the Improvement of the Navigation of the River *Shannon* - - - - - - - - - - - (9 *September.*)

LXVIII. AN ACT to defray the Charge of the Pay, Clothing, and contingent and other Expenses of the Disembodied Militia in *Great Britain* and *Ireland*; and to grant Allowances in certain Cases to Subaltern Officers, Adjutants, Paymasters, Quarter Masters, Surgeons, Assistant Surgeons, Surgeons Mates, and Serjeant Majors of the Militia, until the First day of July One thousand eight hundred and thirty-six - - (9 *September.*)

LXIX. AN ACT to facilitate the Conveyance of Workhouses and other Property of Parishes and of Incorporations or Unions of Parishes in *England* and *Wales* - - - - - - - - - - - - (9 *September.*)

LXX. AN ACT for abolishing, in *Scotland*, Imprisonment for Civil Debts of small Amount - - - - - - - - - - - - - (9 *September.*)

LXXI. AN ACT for appointing Commissioners to continue the Inquiries concerning Charities in *England* and *Wales* until the First day of March One thousand eight hundred and thirty-seven - - - - - - - - - - - (9 *September.*)

LXXII. AN ACT for abolishing the Excise Incorporation in *Scotland*, and for transferring the Funds of the said Incorporation to the Consolidated Fund, and providing for the Payment of the Annuities to the Widows and Orphans of late and present Members of the Incorporation Fund - - - - - - - - - - - (9 *September.*)

CAP. *Royal Assent.*

LXXIII. AN ACT to provide that Persons accused of Forgery in *Scotland* shall not be entitled to Bail unless in certain Cases - - - - - - - (9 *September.*)

LXXIV. AN ACT for the more easy Recovery of Tithes -

LXXV. AN ACT for the Amendment of the Law as to the tithing of Turnips in certain Cases - - - - - - - - - - - - - - - (9 *September.*)

LXXVI. AN ACT to provide for the Regulation of Municipal Corporations in *England* and *Wales* - - - - - - - - - - - - - - (9 *September.*)

LXXVII. AN ACT to repeal the Duty and Drawback on Flint Glass, to impose other Duties and another Drawback in lieu thereof, and to reduce the Drawback on *German* Sheet Glass exported in Panes; and to repeal the Drawback on unground and unpolished Plate Glass; and to amend the Laws relating to the Duties on Glass - - (9 *September.*)

LXXVIII. AN ACT to explain and amend an Act passed in the Second and Third year of the Reign of King WILLIAM the Fourth, for amending the Representation of the People in *Scotland*; and to diminish the Expenses there - - - - - (9 *September.*)

LXXIX. AN ACT to suspend, until after the Sixth day of April One thousand eight hundred and thirty-six, Proceedings for recovering Payment of certain Instalments of the Money advanced under the Acts for establishing Tithe Compositions in *Ireland* - - - - - - - - - - - - (9 *September.*)

LXXX. AN ACT to apply a Sum of Money out of the Consolidated Fund and the Surplus of Ways and Means to the Service of the Year One thousand eight hundred and thirty-five, and to appropriate the Supplies granted in this Session of Parliament - - - - - - - - - - - - (10 *September.*)

LXXXI. AN ACT for abolishing Capital Punishments in Cases of Letter Stealing and Sacrilege - - - - - - - - - - - - - - (10 *September.*)

LXXXII. AN ACT to abolish certain Offices connected with Fines and Recoveries and the Cursitors in the Court of Chancery, and to make Provision for the Abolition of certain Offices in the Superior Courts of Common Law in *England* - - (10 *September.*)

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TO THE

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(I.) - - -	IRELAND.
(G. B.) - -	GREAT BRITAIN.
(G. B. & I.) -	GREAT BRITAIN and IRELAND.
(U. K.) - -	THE WHOLE OF THE UNITED KINGDOM.

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Bills, taking of, pro Confesso, altering and amending the Law regarding	(I.)	16.

C.

		Cap.
Canonries, for protecting the Revenues of, while vacant, and preventing the Lapse thereof during the pending Inquiries respecting the State of the Established Church	(E.)	30.
Capital Punishments, abolishing, in Cases of Letter Stealing and Sacrilege	(G. B. & I.)	81.
Chancery (Clerk of the Crown in), repealing so much of 3 & 4 Gul. IV. c. 84, as relates to the Amount of Salary granted to, and to make other Provisions in relation to that Office	(E.)	47.
——— abolishing certain Offices connected with Fines and Recoveries and the Cursitors in the Court of	(E.)	82.
Charities, for appointing Commissioners to continue the Inquiries concerning, until 1st March 1837	(E.)	71.
Commitments by Courts of Equity for Contempts, altering and amending the Laws regarding	(I.)	16.
Common Law, for the Abolition of certain Offices in the Superior Courts of	(E.)	82.
Constables (Special), enlarging the Powers of Magistrates in the Appointment of	(E.)	43.
Corn, regulating the Importation of, into the Isle of Man	(U. K.)	13.
Corporations (Municipal), providing for the Regulation of	(E.)	76.
Court of Review and Subdivision Courts, removing Doubts as to the Extent of the Powers of	(E.)	29.
Criminals, in the County of Chester, explaining 1 Gul. IV. c. 70, so far as relates to the Execution of	(E.)	1.
Cursitors, abolishing certain Offices connected with, in the Court of Chancery	(E.)	82.
Customs, amending the Law relating to	(U. K.)	66.

D.

Debts, amending the Laws relating to the Recovery of	(I.)	55.
——— (Civil) of small Amount, abolishing Imprisonment for	(S.)	70.
Deodands, for the more speedy Return and Recovery of	(I.)	55.
Dominica (Island of), allowing the Importation of certain Articles into, Duty-free, for a limited Time	(U. K.)	10.
——— granting Relief to	(U. K.)	51.

E.

East India Company, authorizing the Court of Directors of, to suspend the Execution of 3 & 4 Gul. IV. c. 85, so far as relates to the Creation of the Government of Agra	(U. K.)	52.
East Indies, indemnifying the Governor General and others for certain Acts done in the Government of British Territories in the	(U. K.)	6.
Ecclesiastical Dignities, for protecting the Revenues of, while vacant, and for preventing the Lapse thereof during the Inquiries respecting the State of the Established Church	(E.)	30.
Elections (contested) of Members of Parliament, limiting the Time of taking the Poll in Boroughs at, to One Day	(E.)	36.
Enlistment (voluntary) of Seamen, for the Encouragement of	(U. K.)	24.
Exchequer Bills, raising £. 15,000,000	(U. K.)	4.
——— raising £. 13,521,550	(U. K.)	44.
Exchequer (Court of), amending 2 Gul. IV. c. 54, for providing for the Despatch of Business now done by the	(S.)	46.
——— abolishing certain Offices in	(I.)	55.
Excise Duty on Soap used in certain Manufactures, Allowances of, continued	(G. B.)	15.
Excise Incorporation, abolishing and transferring the Funds thereof to the Consolidated Fund, and providing for the Payment of Annuities to the Widows and Orphans of the Incorporation Fund	(S.)	72.

F.

		Cap.
Fees, for the more speedy Return and Recovery of	(I.)	55.
Felony, extending Provisions of 7 Geo. IV. c. 64, as to taking Bail in Cases of	(E.)	33.
Femes Covert, extending to Ireland certain Provisions of 1 Gul. IV. c. 65, relating to the Property of	(I.)	17.
Fines and Forfeitures, for the more speedy Recovery of	(I.)	55.
—— and Recoveries, abolishing certain Offices connected with	(E.)	82.
Flint Glass, repealing the Duty and Drawback on, and imposing others in lieu thereof, and to reduce the Drawback on German Sheet Glass exported in Panes, and to repeal the Drawback on unground and unpolished Plate Glass, and to amend the Law relating to the Duties on Glass	(U. K.)	77.
Forgery, Persons accused of, not to be entitled to Bail, unless in certain Cases	(S.)	73.
Friendly Societies Acts, extending the Provisions of, to the Islands of Guernsey, Jersey and Man	(E.)	23.

G.

Glass. *See* Flint Glass.		
Grand Juries empowered to raise Money by Presentment for the Construction, Enlargement or Repair of Piers and Quays	(I.)	84.
Grants in custodiam, amending the Laws relating to	(I.)	55.

H.

Hempen Manufactures, continuing and amending Regulations for the Encouragement of	(I.)	27.
Highways, consolidating and amending the Laws relating to	(E.)	50.

I.

Imprisonment for Civil Debts of small Amount, abolished	(S.)	70.
Indemnity Act, Annual	(U. K.)	11.
Indictments, for preventing the vexatious Removal of, into the Court of King's Bench	(E.)	33.
Infants, extending to Ireland certain Provisions of 1 Gul. IV. c. 65, respecting the Property of	(I.)	17.
Insane Persons, continuing for Three Years 2 & 3 Gul. IV. c. 107, and 3 & 4 Gul. IV. c. 64, relating to the Care and Treatment of	(E.)	22.
Insolvent Debtors Courts, to authorize the granting of Superannuation Allowances to the Commissioners and Officers of	(E. & I.)	42.
Isle of Man, regulating the Importation of Corn into	(U. K.)	13.

J.

Justice, explaining 1 Gul. IV. c. 70, for the more effectual Administration of	(E.)	1.

L.

Land Revenues of the Crown, amending the Acts relating to	(S.)	58.
Larceny, amending Two clerical Errors in 9 Geo. IV. c. 55, for consolidating the Laws relative to	(I.)	34.
Lectures, for preventing the Publication of, without Consent	(E.)	65.
Letter Stealing, abolishing Capital Punishment in Cases of	(G. B. & I.)	81.
Letters Patent for Inventions, amending the Law touching	(G. B. & I.)	83.
Linen Manufacture, continuing and amending Regulations for	(I.)	27.
Loan Societies, for the Establishment of	(E.)	23.
Lunatics and Persons of unsound Mind, extending to Ireland certain Provisions of 1 Gul. IV. c. 65, relating to the Property of	(I.)	17.

M.

Magistrates, enlarging the Powers of, in the Appointment of Special Constables	(E.)	43.
Man (Isle of), regulating the Importation of Corn into	(U. K.)	13.

		Cap.
Manure, exempting from Toll Carriages carrying	(E.)	18.
Marine Forces while on Shore, annual Act for the Regulation of	(U. K.)	7.
Marriages, rendering certain, valid, and altering the Law with respect to certain voidable Marriages	(E.)	54.
Members of Parliament, limiting to One Day the Time of taking the Poll in Boroughs at contested Elections of	(E.)	36.
Merchant Seamen, amending and consolidating the Laws relating to	(U. K.)	19.
Merchant Shipping, regulating the Admeasurement of the Tonnage and Burthen of	(U. K.)	56.
Militia Staff, for the further Reduction of, and to suspend the Ballot for the Militia	(G. B. & I.)	37.
——— annual Act for the Pay, Clothing, &c. of	(G. B. & I.)	68.
Municipal Corporations, providing for the Regulation of	(E.)	76.
Mutiny Act, annual	(U. K.)	5.

N.

Newspapers, amending 38 Geo. III. c. 78, for preventing the Mischiefs arising from the printing and publishing of, by Persons not known	(G. B.)	2.

O.

Oaths, Abolition of, in various Departments of the State, and substituting Declarations in lieu thereof	(U. K.)	8.
——— the preceding Act repealed, and other Provisions made for the Abolition of unnecessary Oaths	(U. K.)	62.
Offences endangering the Public Peace, for the better Prevention and Punishment of	(I.)	48.
Offices, annual Indemnity Act for Persons neglecting to qualify for	(U. K.)	11.

P.

Passengers, repealing 9 Geo. IV. c. 21, for regulating the Carriage of, in Merchant Vessels from the United Kingdom to the British Possessions in North America	(U. K.)	53.
Paymaster General, Paymaster and Treasurer of Chelsea Hospital, Treasurer of the Navy, and Treasurer of the Ordnance, consolidating the Offices of	(U. K.)	35.
Penalties, for the more speedy Return and Recovery of	(I.)	55.
Piers and Quays, empowering Grand Juries to raise Money by Presentment for the Construction, Enlargement or Repair of	(I.)	84.
Plate Glass. *See* Flint Glass.		
Poll, limiting the Time of taking, in Boroughs, at contested Elections of Members of Parliament, to One Day	(E.)	36.
Post, extending the Accommodation by, to and from Foreign Parts, and for other Purposes relating to the Post Office	(U. K.)	25.
Prebends, for protecting the Revenues of, while vacant, and for preventing the Lapse thereof during the pending Inquiries respecting the State of the Established Church	(E.)	30.
Prisons, for effecting greater Uniformity in the Government of, in England and Wales, and for appointing Inspectors of Prisons in Great Britain	(G. B.)	38.
Public Roads, for giving Effect and Validity to certain Contracts and Presentments for keeping in repair certain	(I.)	31.

R.

Recognizances, for the more speedy Return and Recovery of	(I.)	55.
Representation of the People, amending 2 & 3 Gul. IV. c. 65. concerning and diminishing the Expenses thereof	(S.)	78.

S.

Sacrilege, abolishing Capital Punishments in Cases of	(G. B. & I.)	81.
Savings Banks, extending to Scotland certain Provisions of 9 Geo. IV. c. 92. and 3 Gul. IV. c. 14, and consolidating and amending the Laws relating to	(G. B.)	57.

		Cap.
Seamen, encouraging the voluntary Enlistment of	(U. K.)	24.
Securities given for Considerations arising out of gaming, usurious or other illegal Transactions, amending the Law relating to	(G. B. & I.)	41.
Shannon (River), for Improvement of the Navigation of	(I.)	67.
Sheriffs of Cities or Towns, being Counties of themselves, removing Doubts as to the Declarations to be made and Oaths to be taken by	(E.)	28.
——— in Ireland, facilitating the Appointment of, and for the more effectual passing of their Accounts	(I.)	55.
Shrewsbury (Salop) to Bangor Ferry (Carnarvon), amending, &c. 59 Geo. III. c. 30., relating to the Road from	(E.)	21.
Slaves, for carrying into further Executionthe Provisions of 3 & 4 Gul. IV. c. 73, for compensating the Owners of, upon the Abolition of Slavery	(U. K.)	45.
Slave Trade, for carrying into effect a Treaty with the King of the French and the King of Sardinia, and a Treaty with the King of the French and the King of Denmark, for the Suppression of	(U. K.) (U. K.)	60. 61.
Soap used in certain Manufactures, Allowance of Excise Duty on, continued	(G. B.)	15.
Spirits, exempting certain Retailers of, to a small Amount, from the additional Duties on Licenses, &c.	(G. B. & I.)	39.
Stamps, consolidating certain Offices in the Collection of	(G. B.)	20.
——— altering certain Duties of, and regulating the Collection thereof	(G. B.)	64.
Sugar imported, annual Duties on	(U. K.)	12.
Supplies, Appropriation of	(U. K.) (U. K.) (U. K.)	3. 9. 80.

T.

Taxes, consolidating certain Offices in the Collection of	(G. B.)	20.
——— (Assessed) altering certain Duties of, and regulating the Collection thereof	(G. B.)	64.
Tea, imposing certain Duties on	(U. K.)	32.
Tithe Compositions, for suspending, until after 6th April 1836, Proceedings for recovering Payments of certain Instalments of Money advanced under the Acts for establishing	(I.)	79.
Tithes, for the more easy Recovery of	(E.)	74.
——— of Turnips, amending the Law relating to	(E.)	75.
Tonnage and Burthen of Merchant Shipping, regulating the Admeasurement of	(U. K.)	56.
Turnpike Roads, for continuing till 1st June 1837 the several Acts for regulating	(G. B.)	49.

W.

Weights and Measures, repealing 4 & 5 Gul. IV. c. 49, relating to, and making other Provisions instead thereof	(U. K.)	63.
Western Australia, 10 Geo. IV. c. 22, for providing for the Government of His Majesty's Settlements in, continued to 31st December 1836	(U. K.)	14.
Wine, for discontinuing the Excise Survey on, and the Use of Permits on the Removal thereof	(U. K.)	39.
Wood, to provide for the better Collection of the Duties on, the Produce of Places in Europe	(U. K.)	40.
Workhouses, for facilitating the Conveyance of, and other Property of Parishes and of Incorporations of Unions of Parishes	(E.)	69.

10 *June* 1835.

A

B I L L

To extend the Accommodation by the Post to and from Foreign Parts, and for other purposes relating to the Post Office.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS, by virtue of divers Acts of Parliament His Majesty's Postmaster General is authorized, to and for the use of His Majesty, His heirs and successors, to demand, have, receive and take certain rates of Postage for the conveyance of Letters and Packets by the Post between the United Kingdom and Foreign Parts:

And whereas, in addition to the said Rates, such Letters and Packets are subject to Rates of Postage for their conveyance within Foreign Kingdoms and States:

And whereas it is expedient, for the purpose of facilitating the intercourse with Foreign Countries, that the Postage, as well British as Foreign, on such Letters and Packets, should be payable in whole or in part either by the Sender of Receiver;

Be it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for His Majesty's Postmaster General for the time being, and his Deputies, and he and they are hereby authorized and empowered to demand, receive and take upon any Letters or Packets addressed to any Foreign Kingdom or State from the Person sending the same, the Postage both British and Foreign in one entire sum, for the conveyance of such Letters and Packets by the Post to the places to which the same shall be

1. Postage on Letters to and from Foreign Parts to be taken in one entire Sum.

respectively addressed, and also to demand, receive and take upon Letters and Packets coming from Foreign Parts, addressed to any place within His Majesty's Dominions, in addition to the British Rates of Postage to which the same may be liable, the Rates of Foreign Postage which may be due or payable in respect thereof, and to account for or pay over to any Foreign Kingdom or State, Kingdoms or States, entitled to receive the same, the amount of such Foreign Postage.

2. Rates of Postage marked on Foreign Letters, to be deemed the amount of Postage payable.

And be it further Enacted, That the rates of Foreign Postage marked on any Letters or Packets brought into Great Britain or Ireland, shall in all Courts of Justice and other places be deemed, received and taken as conclusive evidence of the amount of Foreign Postage payable in respect of any such Letter or Packet, in addition to the rates of British Postage payable for the conveyance of the same; and such Foreign Postage shall be recoverable in Great Britain and Ireland, and other His Majesty's Dominions, as Postage due and payable to His Majesty, His heirs and successors.

3. No Letters liable to any Foreign Rates of Postage to be received free.

Provided always, and be it further Enacted, That nothing herein or in any other Act or Acts contained, shall be construed to entitle any Person or Persons to send or receive by the Post, free from the Duties of Postage, any Letters or Packets which are or may be liable to any foreign rates of Postage (the Public Despatches to and from His Majesty's Secretaries of State, and the British Embassies and Legations at Foreign Courts, being bona fide on the Public Service, only excepted.)

4. Registering certain Letters.

AND whereas it may be considered expedient that certain Letters and Packets sent by the Post should be registered; BE it therefore further Enacted, That in case the Postmaster General for the time being shall at any time hereafter in his discretion deem it expedient that any Letters or Packets sent or to be sent by the Post should be registered by the Post Office, it shall be lawful for him and his deputy and deputies by him thereunto authorized, to demand, have, receive and take to and for the use of His Majesty, His heirs and successors, for and in respect of each and every Letter or Packet which shall be so registered, such rate or rates of Postage in addition to any rates payable under or by virtue of this Act or any other Act or Acts of Parliament relating to the Post Office, as the Postmaster General for the time being, with the consent of the Lords Commissioners of His Majesty's Treasury, or any *Three* or more of them, signified by writing under their hands, or under the hand of any one of the Secretaries or Assistant Secretaries to the Treasury for the time being shall from time to time direct or appoint (but such registration shall not render the Postmaster General or the Post Office Revenue in any manner liable for the loss of any such Letters

Letters or Packets, or the contents thereof), all which Letters and Packets shall be delivered to the Postmaster General and his Deputy and Deputies, and also be delivered by them at or between such hours in the day and under all such regulations in every respect as the Postmaster General for the time being shall in his discretion from time to time appoint.

5. Packet Postage.

AND whereas Letters and Packets sent by the Post between Dovor and Calais are now chargeable with the same rates of Postage as Letters sent between London and Calais, and it is expedient to reduce the same; BE it therefore further Enacted, That from and after the *passing of this Act*, it shall be lawful for His Majesty's Postmaster General, and his Deputy and Deputies by him thereunto authorized, to and for the use of His Majesty, His heirs and successors, to demand, have, receive and take for the port and conveyance of all Letters and Packets which shall be carried or conveyed by Packet Boats from or to the Port of Dovor, or any other Port in Great Britain, to or from the Port of Calais or any other Port in France, and not sent to or from London (over and above any inland rates payable on such Letters and Packets), a Packet Postage according to the rates and sums hereinafter mentioned; (that is to say) for the port and conveyance of every Single Letter, a rate of *Sixpence*; for every Double Letter, *One Shilling*; for every Treble Letter, *One Shilling and Sixpence*; and for every Ounce weight, *Two Shillings*, and so in proportion for any greater weight, reckoning every quarter of an ounce, or fraction of a quarter of an ounce, equal to a Single Letter.

6. Reduction of Postage on Ship Letters.

AND whereas by an Act passed in the thirty-ninth year of the reign of King GEORGE the Third, intituled, "An Act for the more secure conveyance of Ship Letters, and for granting to His Majesty certain Rates of Postage thereon," the Postmaster General is authorized to collect and receive Letters, and Packets of Letters, directed to places within His Majesty's Dominions, also to any the Kingdoms and Countries beyond the Seas, and to forward the same by any Ships or Vessels that he in his discretion shall think fit, although not Packet Boats, and to demand and receive to and for the use of His Majesty, His heirs and successors, for every Letter and Packet which shall be delivered to him and his deputies for conveyance in the manner thereinbefore specified a sum not less than one-half part of the rates and duties payable by law for such respective Letters and Packets, if the same were conveyed by Packet Boats, and in cases where no rate of Postage is already established, then to demand and receive for such Letters and Packet rates, as near as the same can be ascertained, equal to one-half of what is paid for Letters sent beyond the Seas: AND whereas

whereas it is expedient that the rates of Postage imposed by the said Act should be reduced; BE it therefore Enacted, That the rates of Postage granted by the said last-recited Act for the conveyance of Letters and Packets through the Post by Ships or Vessels not being Packet Boats, shall be and the same are hereby Repealed; and that, in lieu thereof, it shall and may be lawful to and for His Majesty's Postmaster General for the time being, and his Deputy and Deputies by him thereunto authorized, in his and their discretion, to collect and receive Letters, and Packets of Letters, directed to places within His Majesty's Dominions, also to any the Kingdoms and Countries beyond the Seas, and to forward the same by any Ships or Vessels that he in his discretion shall think fit, although not Packet Boats, or Ships or Vessels by which the Postmaster General shall have contracted for the conveyance of Mails of Letters, pursuant to an Act passed in the second year of the reign of King WILLIAM the Fourth, intituled, "An Act to enable His Majesty's Postmaster General to extend the Accommodation by Post, and to regulate the privilege of Franking in Ireland, and for other purposes relating to the Post Office," and that it shall be lawful for His said Majesty's Postmaster General, and his Deputy and Deputies by him thereunto authorized, to and for the use of His Majesty, His heirs and successors, to demand, have, receive and take for every Letter and Packet which shall be delivered to him or his Deputies for conveyance in manner lastly hereinbefore mentioned (except Letters and Packets sent by private Ships from Great Britain to Ireland, or from Ireland to Great Britain), the rates of Postage hereinafter mentioned; (that is to say) if such Letter or Packet be posted at the Port from which such Ship or Vessel shall sail, or at which such Ship or Vessel may touch, a rate of *Eight-pence* for every Single Letter, and so in proportion for Packets, reckoning every quarter of an ounce, or fraction of a quarter of an ounce, equal to a Single Letter; and if such Letter or Packet shall be posted at any other part of the United Kingdom than the Port from which such Ship or Vessel shall sail, or at which such Ship or Vessel may touch, a rate of *One Shilling* for every Single Letter, and so in proportion for Packets, reckoning every quarter of an ounce, or fraction of a quarter of an ounce, equal to a Single Letter; and for every Letter or Packet which shall be delivered to the Postmaster General or his Deputies for conveyance in manner lastly hereinbefore mentioned, from Great Britain to Ireland, and from Ireland to Great Britain, a rate of *Eight-pence* on every Single Letter, and so in proportion as aforesaid for Packets over and above and in addition to any rates which may arise on the inland conveyance of such last-mentioned Letters or Packets within Great Britain and Ireland: Provided always, That nothing herein contained shall extend, or be deemed or construed to extend, to alter or

repeal

repeal any of the rates which the Postmaster General and his Deputy and Deputies are authorized to demand, have, receive and take for Letters and Packets delivered to him or them for conveyance to Ceylon, the Mauritius, the East Indies or the Cape of Good Hope, by an Act passed in the fifty-ninth year of the reign of King GEORGE the Third, intituled, "An Act to repeal so much of an Act passed in the fifty-fifth year of the Reign of his present Majesty, as relates to the Postage and Conveyance of Letters to and from the Cape of Good Hope, Ceylon, the Mauritius and the East Indies, and to make other regulations respecting the Postage of such Letters and Packets, and other Letters and Packets sent by the Post."

7. Allowance to Masters of Vessels conveying Letters.

AND, for the encouragement of the Masters of such Ships or Vessels; BE it further Enacted, That it shall be lawful to and for the said Postmaster General to allow all such Masters the sum of *Two-pence* a Letter or Packet upon all such Letters or Packets as they shall respectively have or take on board such Ship or Vessel, provided such Letters and Packets shall have been delivered to them from the Post Office.

8. Letters may be sent by other Vessels than Packets.

Provided always, and be it further Enacted, That nothing herein contained shall extend, or be construed to extend, to prevent any Person or Persons, at his or their discretion, from sending any Letters or Packets by any Ship or Vessel (not being a Packet Boat, or Ship or Vessel by which the Postmaster General shall have contracted for the conveyance of Mails of Letters, pursuant to the said Act passed in the second year of the reign of King WILLIAM the Fourth), from any Port to any place out of Great Britain or Ireland, otherwise than through the Post Office: Provided always, That nothing herein contained shall extend in anywise to authorize or empower any Person or Persons to make any collections of Letters contrary to the Laws now in force relating to the Post Office.

9. Assimilating Rate of Postage on Ship Letters in Ireland, to the Rates on Ship Letters in Great Britain.

AND whereas it is expedient that the rates on Letters brought into that part of the United Kingdom called Ireland by Ships other than Packet Boats, should be assimilated to the rates on Ship Letters brought into Great Britain; BE it therefore further Enacted, That from and after the *passing of this Act*, it shall and may be lawful to and for the Postmaster General and his Deputies to demand, have, receive and take for every Letter which shall be brought into Ireland by Ships and Vessels other than Packet Boats, from places within His Majesty's Dominions, and any the Kingdoms and Countries beyond the Seas, other than and except from the Cape of Good Hope, the Mauritius, Ceylon and the East Indies (in lieu of the rates of Sea Postage now payable thereon), the same rates of

of Sea Postage (over and above any inland rates), as under or by virtue of an Act passed in the fifty-fifth year of the reign of King GEORGE the Third, intituled, "An Act for granting certain Rates on the Postage of Letters to and from Great Britain, the Cape of Good Hope, the Mauritius and the East Indies, and for making certain Regulations respecting the Postage of Ship Letters, and of Letters in Great Britain," would be payable on such Letters and Packets if brought by such Ships or Vessels into Great Britain.

10. Sea Postage on Letters from certain Places.

And be it further Enacted, That it shall be lawful for His Majesty's Postmaster General and his Deputies to demand, have, receive and take for every Letter or Packet which shall be brought into Ireland by any Ship or Vessel arriving from the Cape of Good Hope, the Mauritius, Ceylon or the East Indies, the like rates of Sea Postage (over and above any inland rates), as under or by virtue of the said Act passed in the fifty-ninth year of the reign of King GEORGE the Third would be payable on such Letters and Packets if brought by such Ships or Vessels into Great Britain, and to make to the Commander or Master of every such Ship or Vessel the like allowances in respect of such Letters and Packets as would by law be allowable in case such Letters and Packets had been brought into Great Britain.

11. Reduction of Postage on Foreign Newspapers.

AND whereas Foreign Newspapers brought into Great Britain and Ireland by Ships or Vessels other than Packets, and Newspapers printed within the United Kingdom, and sent from thence by Ships and Vessels (other than Packet Boats) to His Majesty's Colonies and Possessions beyond Seas (other than and except the East Indies) and to Foreign Parts, are now liable to the same Rates and Duties of Postage as Letters: AND whereas it is expedient that the rates of Postage on all such Newspapers should be reduced; BE it therefore Enacted, That from and after the *passing of this Act*, it shall be lawful for His Majesty's Postmaster General, and his Deputy and Deputies, for the use of His Majesty, His heirs and successors, to demand and receive for the conveyance of every Foreign Newspaper brought into the United Kingdom by any Ship or Vessel (other than a Packet Boat), and delivered by the Commander of any such Ship or Vessel at any Post Office, the sum of *Three-pence* on the delivery thereof within the United Kingdom to the Person or Persons to whom the same shall be addressed.

12. Postage on Newspapers sent Abroad.

And be it further Enacted, That it shall be lawful for His Majesty's Postmaster General for the time being, and his Deputy and Deputies in Great Britain and Ireland, to receive at any Post Office printed Newspapers liable to the Stamp Duty, and duly stamped, directed to places within His Majesty's Dominions, and to any Kingdoms

Kingdoms and Countries beyond the Seas, and to forward the same by any Ships or Vessels that he in his discretion may think fit (not being Packet Boats), and to demand, have, receive and take for every Newspaper which shall be delivered to him or his Deputies for conveyance in manner last aforesaid, the sum of *Three-pence*.

13. Allowance to Masters of Ships conveying Newspapers abroad.

And be it further Enacted, That it shall be lawful for the said Postmaster General by and out of the said rate of *Three-pence*, to allow and pay the Master or Commander of Ships and Vessels the sum of *Two-pence* on every Foreign Newspaper they shall deliver at the Post Office of the Post Town at which they shall touch or arrive, and the like sum of *Two-pence* on every Newspaper delivered by the Postmaster General or his Deputies to any such Master or Commander for conveyance as aforesaid.

14. Not to alter Rates under Act 59 Geo. 3.

Provided always, and be it further Enacted, That nothing herein contained shall extend, or be deemed or construed to extend, to alter or repeal any of the rates which the Postmaster General and his Deputy and Deputies are authorized to demand, have, receive and take by the said Act passed in the fifty-ninth year of the reign of King GEORGE the Third, for printed Newspapers delivered to him or them for conveyance to the Cape of Good Hope, Ceylon, the Mauritius or the East Indies.

15. Newspapers to be sent without a cover, or in a cover open at the ends.

And be it further Enacted, That no Newspaper shall be sent by the Post under the provisions of this present Act, unless every such Paper be sent without a cover, or in a cover open at the sides, and that there be no words or communication printed on such Paper after the same shall have been published, nor any writing or marks upon such printed Paper, or the cover thereof, other than the Name and Address of the Person to whom it is sent, and so that there be no Paper or thing enclosed or concealed in or with such printed Paper, or the cover thereof, nor any printed words or communication on the cover thereof.

16. Newspapers sent out of the Kingdom, to be put into the Post within Seven Days from the time when printed.

And be it further Enacted, That every printed Newspaper to be sent out of the United Kingdom under the provisions of this Act, shall in all cases be put into a Post Office or Receiving Office in Great Britain or Ireland within *Seven* Days next after the day on which the same shall be published, the day of publication to be ascertained by the date of such Paper; and in case any such Paper shall be put into any Post Office at any time after the expiration of such *Seven* Days, it shall and may be lawful for His Majesty's Postmaster General, or his Deputy or Deputies, at his or their discretion, either to detain any such Paper, or to forward the same by the Post charged with the full Duty of Letter Postage, according to the Rates now established by Law.

17. Postmaster-General may examine Newspapers sent by the Post.

And be it further Enacted, That it shall be lawful for His Majesty's Postmaster General, and his Deputy and Deputies, or any of the Officers employed under him or them respectively, to examine and search any printed Newspaper which under the provisions of this Act shall be sent by the Post without a cover, or in a cover open at the sides as aforesaid, in order to discover whether any words or communication have or has been printed on such Paper after the same was published, or whether there is any writing or mark upon such printed Paper, or the cover thereof, other than the Name and Address of the Person to whom it is sent, or whether there is any Paper or thing enclosed or concealed in or with such printed Newspaper, or the cover thereof, or whether there are any printed words or communication on the cover thereof, and also in order to discover whether Newspapers printed and posted in the United Kingdom are duly stamped; and in case any words or communication shall be found to have been printed on any such Paper after the same was published, or any writing or mark shall be found on any such printed Paper, or the cover thereof, other than the Name and Address of the Person to whom it is sent, or any other Paper or thing shall be found to be enclosed or concealed in or with such printed Paper, or the cover thereof as aforesaid, or any printed words or communication shall be found upon the cover thereof, the whole of every such Packet addressed and delivered to any Person within the United Kingdom, shall be charged with *Treble* the Duty of Letter Postage, according to the rates now established by law; and as to every such Paper or Packet going out of the United Kingdom, it shall be lawful for the Postmaster General, or his Deputy or Deputies, at his or their discretion, either to detain any such Paper or Packet, or to forward the same by the Post charged with the Duty of Letter Postage; and in case any Newspaper printed and posted in the United Kingdom, and sent by the Post under the provisions of this Act, shall appear not to have been duly stamped, the same shall be stopped and sent to the Commissioners of Stamps either at London or Dublin, as the case may be.

18. Rates to be paid into the hands of the Receiver-General.

And be it further Enacted, That the several Rates and Duties of of British Postage hereinbefore granted, shall be paid from time to time into the hands of the Receiver General for the time being of the Revenue of the Post Office, who shall pay the same (the necessary charges for collecting, paying and accounting for the same being first deducted), into the Receipt of His Majesty's Exchequer, on such days and times and in such manner as the present Rates and Duties are directed by law to be paid; and the said Duties so to be paid into the said Receipt as aforesaid, shall be carried to and made part of the Consolidated Fund of Great Britain.

And

19. Recovery of Arrears of Postage, by Distress of Goods.

And be it further Enacted, That so often as any sum or sums of money, not exceeding *Twenty* Pounds, shall be due from any Person or Persons in Great Britain (whether under this Act, or under any other Act or Acts relating to the Post Office), for the Postage of any Letter or Packet, Letters or Packets, to him her or them delivered by any Deputy, Agent or Letter Carrier under His Majesty's Postmaster General, or which shall be due from any Deputy, Agent or Letter Carrier in Great Britain, for the port of any Letters or Packets to him her or them entrusted for delivery under the authority of the said Postmaster General, or from any other Person or Persons employed, or to be employed, in receiving or collecting the Postage of Letters or Packets, or any of the Post Office Revenue, it shall be lawful for any Constable, Tithing-man or other Peace Officer of the County, Riding, Division, City, Town or Place where such Person or Persons shall reside, first obtaining a warrant for that purpose, under the hand and seal, or hands and seals, of any one or more of His Majesty's Justices acting in and for such County, Riding, Division, City, Town or Place (which Justice or Justices, on complaint made to him or them, shall summon the party complained of, and the Witnesses on either side, and examine into the matter of fact, and shall grant such warrant, on due proof being made of the sum or sums due and owing from such Person or Persons as aforesaid, by the voluntary confession of the party, or by the oath of one or more Witness or Witnesses), to distrain such Person, or Persons by his her or their goods and chattels for the amount of such debt; and the distress so to be taken to detain and keep for the space of *Five* Days at the costs and charges of such Person or Persons; and if he she or they shall not within the time pay the amount of such debt, with the costs and charges of taking and keeping such distress, then the goods and chattels so distrained shall be sold by such Constable, Tithing-man or other Peace Officer, who shall render the overplus (if any) of the money arising by the sale thereof, after deducting and retaining the amount of such Debt, and the costs and charges of taking, keeping and selling such distress, to the Person or Persons so to be distrained as aforesaid; and, for the purpose of taking such distress, it shall be lawful for such Constable, Tithing-man or other Peace Officer, when any refusal or resistance shall be made, to break open in the day-time any house or place where any goods or chattels of such Person or Persons shall be; and if no sufficient Distress can be had or taken whereon to levy the said Debt and Charges, then such Justice or Justices shall commit such Person or Persons to the Prison of such County, Riding, Division, City, Town or Place, there to remain until such Debt and Charges shall be fully paid and satisfied.

20. Proceedings to be in the Form specified in the Schedule.

And be it further Enacted, That every Complaint, Information, Summons, Conviction, Warrant of Distress or Commitment, or other such proceeding, which shall be had or taken under the provisions of this Act for the recovery of any Postage or Postage Debt, may be drawn or made out according to the several Forms contained in the Schedule hereunto annexed, or to the effect thereof, *mutatis mutandis*, as the case shall require; and every such Complaint, Information, Summons, Conviction, Warrant, or other such proceeding, which shall be so drawn or made out, shall be good and effectual to all intents and purposes whatsoever, without stating the case or the facts or evidence in any more particular manner than is required in and by such forms respectively; and that wherever the term "Officer of the Post Office" occurs in this Act, or the Schedule thereto, the same shall be construed to mean and include any Deputy, Agent, Officer, Clerk, Letter Carrier or other Person employed by or under the Post Office, whatever may be his particular office or employment; and that wherever in this Act, or the Schedule thereto, with reference to any person, matter or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, Bodies Politic or Corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

21. Limitation of Actions.

And be it further Enacted, That all Actions and Prosecutions which shall be brought or commenced against any Person for any thing done in pursuance or under the authority of this Act, shall be commenced and prosecuted within *Three* calendar Months next after the fact committed, and not afterwards, and shall be brought and tried in the County or Place where the cause of Action shall arise, and not elsewhere; and notice in writing of such Action, and of the cause thereof, shall be given to the Defendant *One* calendar Month at least before the commencement of the Action, and the Defendant in such Action may plead the General Issue, and give this Act and any other matter or thing in evidence at any Trial to be had thereupon; and if the cause of Action shall appear to arise from any matter or thing done in pursuance and by the authority of this Act, or if any such Action shall be brought after the expiration of such *Three* calendar Months, or shall be brought in any other County or Place than as aforesaid, or if notice of such Action shall not have been given in manner aforesaid, or if tender of sufficient amends shall have been made before such Action commenced, or if a sufficient sum of money shall have been paid into Court after such Action commenced, by or on behalf of the Defendant, the Jury shall find

find a Verdict for the Defendant; and if a Verdict shall pass for the Defendant, or if the Plaintiff shall become nonsuit, or shall discontinue any such Action, or if, on demurrer or otherwise, judgment shall be given against the Plaintiff, the Defendant shall recover his or her full Costs of Suit as between Attorney and Client, and shall have the like remedy for the same as any Defendant may have for Costs of Suit in other cases at law; and although a Verdict shall be given for the Plaintiff in any such Action, such Plaintiff shall not have Costs against the Defendant, unless the Judge before whom the Trial shall be had shall at the time of such Trial certify in writing his approbation of the Action, and of the Verdict obtained thereupon.

22. Act may be altered.

And be it further Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed in this present Session of Parliament.

SCHEDULE

To which this ACT refers.

No. 1.

FORM of COMPLAINT whereon to found a WARRANT of DISTRESS for Recovery of POSTAGE.

County [or, as the case may be] of To wit. } BE it Remembered, That on this day of in the year of Our Lord at in the of A. B., an Officer of the Post Office, complaineth to me, C. D. Esquire, one of His Majesty's Justices of the Peace for the said that the sum of is due and owing from E. F. of to His Majesty [or, to the said A. B., if the case be so] for the Duty of Postage which he hath refused or neglected to pay; and thereupon the said A. B. prayeth of me, the said Justice, that the said E. F. may be summoned to appear, and show cause, if any he have, why, upon due proof being made of the sum due and owing from him for Postage as aforesaid, a Warrant of Distress should not be granted for recovery thereof, pursuant to the directions of the statute in that behalf made.

Taken and received by me the day and year first above written. }

No. 2.

FORM of a SUMMONS on the foregoing COMPLAINT.

To E. F. of, &c.

County [or, as the case may be] of To wit. } WHEREAS Complaint hath been made unto me, C. D., Esquire, one of His Majesty's Justices of the Peace for the of that the sum of is due and owing from you to His Majesty [or, to A. B., an Officer of the Post Office, if the case be so] for the Duty of Postage which you have refused or neglected to pay. These are therefore to summon you to be and appear at in the said on the day of at the hour of in the noon of the same day, before me the said Justice, or before such other of His Majesty's Justices of the Peace for the said as shall be then present,

present, in order that you may show cause, if any you have, why, on due proof being made of the sum of money due and owing from you for such Duty of Postage as aforesaid, a Warrant of Distress should not be granted for the recovery thereof, pursuant to the directions of the statute in that behalf made; and if you fail to appear accordingly, such proceedings will be taken as if you had appeared and had not shown any sufficient cause why such Warrant should not be granted. Given under my hand and seal this day of

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No. 3.

FORM of a WARRANT of DISTRESS, founded on the foregoing COMPLAINT.

To the Constable of [or, to C. D. of as the case may be.]

County [or, as the case may be] of To wit. } WHEREAS Complaint hath been made that E. F. of is indebted to His Majesty [or, to A. B., an Officer of the Post Office, if the case be so] in the sum of for the Duty of Postage, which he hath refused or neglected to pay: And whereas the said E. F. hath been duly summoned, and due proof hath been made on oath before me that the sum of is due and owing from the said E. F. for such Duty of Postage as aforesaid, and that he hath neglected to pay the same; therefore I command you to distrain the said E. F. by his goods and chattels, and to levy thereon the said last-mentioned Sum, being the Amount of such Duty of Postage as aforesaid, and also the further Sum of for the Costs, Charges and Expenses of proceeding for and obtaining this Warrant, and of the Proceedings incident and relating thereto, making together the Sum of and if, within the space of Five Days next after the taking of such Distress, the Sum of together with the reasonable Costs and Charges of taking and keeping such Distress, shall not be paid, then I do hereby order and direct that you shall sell and dispose of the said goods and chattels which shall be so distrained, and that you shall levy and raise thereout the said Sum of and all reasonable Costs and Charges of taking, keeping and selling such Distress, rendering the overplus (if any) to the owner of the said goods and chattels, and you are to certify to me what you have done by virtue of this my Warrant. Given under my hand and seal this day of

(signed)

One of His Majesty's Justices of the Peace for the said of

No. 4.

FORM of a WARRANT of COMMITMENT for want of sufficient DISTRESS, founded on the foregoing COMPLAINT.

To the Constable of in the of and also to the Keeper of the Common Gaol [or, House of Correction], at in the said

County [or, as the case may be] of To wit. } WHEREAS Complaint was made that E. F. of was indebted to His Majesty [or, to A. B., an Officer of the Post Office, if the case be so], in the Sum of for the Duty of Postage, which he had refused or neglected to pay: And whereas the said E. F. was duly summoned, and due proof was made on oath that the sum of was due and owing from the said E. F. for such Duty of Postage as aforesaid, and that he had neglected to pay the same: And whereas a Warrant has been issued directed to C. D. of commanding him by distress and sale of the Goods and Chattels of the said E. F. to levy the said last-mentioned sum, being the amount of such Duty of Postage as aforesaid, due and owing from the said E. F., and also the further sum of for the Costs, Charges and Expenses of proceeding for and obtaining the said Warrant, and of the proceedings incident and relating thereto, making together the Sum of and it now appearing to me, by the Oath of the said C. D. that no sufficient Distress can be found whereon to levy the said Duty, Costs and Charges [or, in case an insufficient Distress shall have been taken, and whereas the said C. D. hath certified to me that he hath, under the said Warrant, levied and raised the sum of only, and it now appearing to me, by the Oath of the said C. D. that no sufficient Distress can be found whereon to levy the residue of the said Duty, Costs and Charges]; Therefore I command you, the said Constable of to apprehend and take the said E. F., and safely to convey him to the Common Gaol [or, House of Correction] of the said at in the said and there to deliver him to the Keeper thereof, together with this Warrant; and I do hereby command you the said Keeper to receive into your custody in the said Gaol [or, House of Correction], him the said E. F., and him therein safely to keep until the said sum of or until the sum of the residue of the said Duty, Costs and Charges remaining, after deducting the said Sum of so levied and raised as aforesaid, shall be fully paid and satisfied.

Given under my hand and seal this day of

(signed)

One of His Majesty's Justice of the Peace for the said of

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5 WILL. IV.—Sess. 1835.

A

B I L L

To extend the Accommodation by the Post to and from Foreign Parts, and for other purposes relating to the Post Office.

(*Prepared and brought in by Mr. Baring and Mr. Labouchere.*)

Ordered, by The House of Commons, *to be Printed,*
10 *June* 1835.

24 *June* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To extend the Accommodation by the Post to and from Foreign Parts, and for other purposes relating to the Post Office.

[N. B.—*The Clauses marked* (A. *to* K.) *were added by the Committee.*]

WHEREAS by virtue of divers Acts of Parliament His Majesty's Postmaster General is authorized, to and for the use of His Majesty, His heirs and successors, to demand, have, receive and take certain rates of Postage for the conveyance of Letters and Packets by the Post between the United Kingdom and Foreign Parts: Preamble.

And whereas, in addition to the said Rates, such Letters and Packets are subject to Rates of Postage for their conveyance within Foreign Kingdoms and States:

And whereas it is expedient, for the purpose of facilitating the intercourse with Foreign Countries, that the Postage, as well *British* as Foreign, on such Letters and Packets, should be payable in whole or in part either by the Sender or Receiver;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for His Majesty's Postmaster General for the time being, and his Deputies, and he and they are hereby authorized and empowered to demand, receive and take upon any Letters or Packets addressed to any Foreign Kingdom or State from the Person sending the same, the Postage both *British* and Foreign in one entire sum, for the conveyance of such Letters

I. Postage on Letters to and from Foreign Parts to be taken in one entire Sum.

and Packets by the Post to the places to which the same shall be respectively addressed, and also to demand, receive and take upon Letters and Packets coming from Foreign Parts, addressed to any place within His Majesty's Dominions, in addition to the *British* Rates of Postage to which the same may be liable, the Rates of Foreign Postage which may be due or payable in respect thereof, and to account for or pay over to any Foreign Kingdom or State, Kingdoms or States, entitled to receive the same, the amount of such Foreign Postage.

2. Clause (A.) Optional Payment of Postage on Letters to Foreign Parts.

And be it further Enacted, That from and after the Postmaster General for the time being shall have made and entered into any treaty or agreement with the Post Office of any Foreign Kingdom or State, in respect of the Postage on Letters and Packets sent by the Post from the United Kingdom to any such Foreign Kingdom or State, or to any other Foreign Kingdom or State, and so long as any such treaty or agreement shall continue in force, it shall be optional with every Person sending any Letter or Packet by the Post from the United Kingdom to any Foreign Kingdom or State which shall be included in any such treaty or agreement, or to which the same shall extend, to pay the *British* and Foreign Postage thereof in one entire sum as aforesaid, or to send the same without payment of any part of such entire sum, to the intent that the whole thereof may be paid by the Person or Persons to whom the same shall be addressed, or otherwise to pay the *British* Postage only (as heretofore) on any such Letter or Packet.

3. Rates of Postage marked on Foreign Letters, to be deemed the amount of Postage payable.

And be it further Enacted, That the rates of Foreign Postage marked on any Letters or Packets brought into *Great Britain* or *Ireland*, shall in all Courts of Justice and other places be deemed, received and taken as conclusive evidence of the amount of Foreign Postage payable in respect of any such Letter or Packet, in addition to the rates of *British* Postage payable for the conveyance of the same; and such Foreign Postage shall be recoverable in *Great Britain* and *Ireland*, and other His Majesty's Dominions, as Postage due and payable to His Majesty, His heirs and successors.

4. No Letters liable to any Foreign Rates of Postage to be received free.

Provided always, and be it further Enacted, That nothing herein or in any other Act or Acts contained, shall be construed to entitle any Person or Persons to send or receive by the Post, free from the Duties of Postage, any Letters or Packets which are or may be liable to any foreign rates of Postage (the Public Despatches to and from His Majesty's Secretaries of State, and the *British* Embassies and Legations at Foreign Courts, being *bonâ fide* on the Public Service, only excepted.)

AND

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5. Registering certain Letters.

AND whereas it may be considered expedient that certain Letters and Packets sent by the Post should be registered; BE it therefore further Enacted, That in case the Postmaster General for the time being shall at any time hereafter in his discretion deem it expedient that any Letters or Packets sent or to be sent by the Post should be registered by the Post Office, it shall be lawful for him and his deputy and deputies by him thereunto authorized, to demand, have, receive and take to and for the use of His Majesty, His heirs and successors, for and in respect of each and every Letter or Packet which shall be so registered, such rate or rates of Postage in addition to any rates payable under or by virtue of this Act or any other Act or Acts of Parliament relating to the Post Office, as the Postmaster General for the time being, with the consent of the Lords Commissioners of His Majesty's Treasury, or any Three or more of them, signified by writing under their hands, or under the hand of any one of the Secretaries or Assistant Secretaries to the Treasury for the time being shall from time to time direct or appoint (but such registration shall not render the Postmaster General or the Post Office Revenue in any manner liable for the loss of any such Letters or Packets, or the contents thereof), all which Letters and Packets shall be delivered to the Postmaster General and his Deputy and Deputies, and also be delivered by them at or between such hours in the day and under all such regulations in every respect as the Postmaster General for the time being shall in his discretion from time to time appoint.

6. Packet Postage.

AND whereas Letters and Packets sent by the Post between *Dovor* and *Calais* are now chargeable with the same rates of Postage as Letters sent between *London* and *Calais*, and it is expedient to reduce the same; BE it therefore further Enacted, That from and after the passing of this Act, it shall be lawful for His Majesty's Postmaster General, and his Deputy and Deputies by him thereunto authorized, to and for the use of His Majesty, His heirs and successors, to demand, have, receive and take for the port and conveyance of all Letters and Packets which shall be carried or conveyed by Packet Boats from or to the Port of *Dovor*, or any other Port in *Great Britain*, to or from the Port of *Calais* or any other Port in *France*, and not sent to or from *London* (over and above any inland rates payable on such Letters and Packets), a Packet Postage according to the rates and sums hereinafter mentioned; (that is to say) for the port and conveyance of every Single Letter, a rate of Sixpence; for every Double Letter, One Shilling; for every Treble Letter, One Shilling and Sixpence; and for every Ounce weight, Two Shillings, and so in proportion for any greater weight, reckoning every quarter of an ounce, or fraction of a quarter of an ounce, equal to a Single Letter: Provided always,

That nothing herein contained shall extend, or be deemed or construed to extend, to alter or repeal an Act passed in the fourth and fifth years of the reign of King WILLIAM the Fourth, intituled, "An Act to regulate the Conveyance of Printed Newspapers by Post between the United Kingdom, the *British* Colonies and Foreign Parts."

7. Reduction of Postage on Ship Letters.

AND whereas by an Act passed in the thirty-ninth year of the reign of King GEORGE the Third, intituled, "An Act for the more secure conveyance of Ship Letters, and for granting to His Majesty certain Rates of Postage thereon," the Postmaster General is authorized to collect and receive Letters, and Packets of Letters, directed to places within His Majesty's Dominions, also to any the Kingdoms and Countries beyond the Seas, and to forward the same by any Ships or Vessels that he in his discretion shall think fit, although not Packet Boats, and to demand and receive to and for the use of His Majesty, His heirs and successors, for every Letter and Packet which shall be delivered to him and his deputies for conveyance in the manner thereinbefore specified a sum not less than one-half part of the rates and duties payable by law for such respective Letters and Packets, if the same were conveyed by Packet Boats, and in cases where no rate of Postage is already established, then to demand and receive for such Letters and Packets rates, as near as the same can be ascertained, equal to one-half of what is paid for Letters sent beyond the Seas: AND whereas it is expedient that the rates of Postage imposed by the said Act should be reduced; BE it therefore Enacted, That the rates of Postage granted by the said last-recited Act for the conveyance of Letters and Packets through the Post by Ships or Vessels not being Packet Boats, shall be and the same are hereby Repealed; and that, in lieu thereof, it shall and may be lawful to and for His Majesty's Postmaster General for the time being, and his Deputy and Deputies by him thereunto authorized, in his and their discretion, to collect and receive Letters, and Packets of Letters, directed to places within His Majesty's Dominions, also to any the Kingdoms and Countries beyond the Seas, and to forward the same by any Ships or Vessels that he in his discretion shall think fit, although not Packet Boats, or Ships or Vessels by which the Postmaster General shall have contracted for the conveyance of Mails of Letters, pursuant to an Act passed in the second year of the reign of King WILLIAM the Fourth, intituled, "An Act to enable His Majesty's Postmaster General to extend the Accommodation by Post, and to regulate the privilege of Franking in *Ireland*, and for other purposes relating to the Post Office," and that it shall be lawful for His said Majesty's Postmaster General, and his Deputy and Deputies by him thereunto authorized, to and for the use of

His

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His Majesty, His heirs and successors, to demand, have, receive and take for every Letter and Packet which shall be delivered to him or his Deputies for conveyance in manner lastly hereinbefore mentioned (except Letters and Packets sent by private Ships from *Great Britain* to *Ireland*, or from *Ireland* to *Great Britain*, or between any Ports or Places in *Great Britain* or *Ireland*), the rates of Postage hereinafter mentioned; (that is to say) if such Letter or Packet be posted at the Port from which such Ship or Vessel shall sail, or at which such Ship or Vessel may touch, a rate of Eight-pence for every Single Letter, and so in proportion for Packets, reckoning every quarter of an ounce, or fraction of a quarter of an ounce, equal to a Single Letter; and if such Letter or Packet shall be posted at any other part of the United Kingdom than the Port from which such Ship or Vessel shall sail, or at which such Ship or Vessel may touch, a rate of One Shilling for every Single Letter, and so in proportion for Packets, reckoning every quarter of an ounce, or fraction of a quarter of an ounce, equal to a Single Letter; and for every Letter or Packet which shall be delivered to the Postmaster General or his Deputies for conveyance in manner lastly hereinbefore mentioned, from *Great Britain* to *Ireland*, and from *Ireland* to *Great Britain*, or from any Port or Place in *Great Britain* or *Ireland* to any other Port or Place within the same, or either of them, a rate of Eight-pence on every Single Letter, and so in proportion as aforesaid for Packets over and above and in addition to any rates which may arise on the inland conveyance of such last-mentioned Letters or Packets within *Great Britain* and *Ireland*: Provided always, That nothing herein contained shall extend, or be deemed or construed to extend, to alter or repeal any of the rates which the Postmaster General and his Deputy and Deputies are authorized to demand, have, receive and take for Letters and Packets delivered to him or them for conveyance to *Ceylon*, the *Mauritius*, the *East Indies* or the *Cape of Good Hope*, by an Act passed in the fifty-ninth year of the reign of King GEORGE the Third, intituled, "An Act to repeal so much of an Act passed in the fifty-fifth year of the reign of his present Majesty, as relates to the Postage and Conveyance of Letters to and from the *Cape of Good Hope*, *Ceylon*, the *Mauritius* and the *East Indies*, and to make other regulations respecting the Postage of such Letters and Packets, and other Letters and Packets sent by the Post."

8. Allowance to Masters of Vessels conveying Letters.

AND, for the encouragement of the Masters of such Ships or Vessels; BE it further Enacted, That it shall be lawful to and for the said Postmaster General to allow all such Masters the sum of Two-pence a Letter or Packet upon all such Letters or Packets as they shall respectively have or take on board such Ship or Vessel, provided

provided such Letters and Packets shall have been delivered to them from the Post Office.

9. Letters may be sent by other Vessels than Packets.

Provided always, and be it further Enacted, That nothing herein contained shall extend, or be construed to extend, to prevent any Person or Persons, at his or their discretion, from sending any Letters or Packets by any Ship or Vessel (not being a Packet Boat, or Ship or Vessel by which the Postmaster General shall have contracted for the conveyance of Mails of Letters, pursuant to the said Act passed in the second year of the reign of King WILLIAM the Fourth), from any Port to any place out of *Great Britain* or *Ireland*, otherwise than through the Post Office: Provided always, That nothing herein contained shall extend in anywise to authorize or empower any Person or Persons to make any collection of Letters contrary to the Laws now in force relating to the Post Office.

10. Assimilating Rate of Postage on Ship Letters in Ireland, to the Rates on Ship Letters in Great Britain.

AND whereas it is expedient that the rates on Letters brought into that part of the United Kingdom called *Irelænd* by Ships other than Packet Boats, should be assimilated to the rates on Ship Letters brought into *Great Britain*; BE it therefore further Enacted, That from and after the passing of this Act, it shall and may be lawful to and for the Postmaster General and his Deputies to demand, have, receive and take for every Letter which shall be brought into *Ireland* by Ships and Vessels other than Packet Boats, from places within His Majesty's Dominions, and any the Kingdoms and Countries beyond the Seas, other than and except from the *Cape of Good Hope*, the *Mauritius*, *Ceylon* and the *East Indies* (in lieu of the rates of Sea Postage now payable thereon), the same rates of Sea Postage (over and above any inland rates), as under or by virtue of an Act passed in the fifty-fifth year of the reign of King GEORGE the Third, intituled, "An Act for granting certain Rates on the Postage of Letters to and from *Great Britain*, the *Cape of Good Hope*, the *Mauritius* and the *East Indies*, and for making certain Regulations respecting the Postage of Ship Letters, and of Letters in *Great Britain*," would be payable on such Letters and Packets if brought by such Ships or Vessels into *Great Britain*.

11. Sea Postage on Letters from certain Places.

And be it further Enacted, That it shall be lawful for His Majesty's Postmaster General and his Deputies to demand, have, receive and take for every Letter or Packet which shall be brought into *Ireland* by any Ship or Vessel arriving from the *Cape of Good Hope*, the *Mauritius*, *Ceylon* or the *East Indies*, the like rates of Sea Postage (over and above any inland rates), as under or by virtue of the said Act passed in the fifty-ninth year of the reign of King GEORGE the Third would be payable on such Letters and Packets if

if brought by such Ships or Vessels into *Great Britain*, and to make to the Commander or Master of every such Ship or Vessel the like allowances in respect of such Letters and Packets as would by law be allowable in case such Letters and Packets had been brought into *Great Britain*.

12. Clause (B.) Sea Postage from Ireland to the East Indies.

And be it further Enacted, That it shall be lawful for His Majesty's Postmaster General and his Deputy and Deputies by him thereunto authorized, to collect and receive in *Ireland*, Letters and Packets directed to the *Cape of Good Hope*, the *Mauritius*, *Ceylon*, or the *East Indies*, and to forward the same by any Ships or Vessels that he or they in his or their discretion shall think fit, and to demand, have, receive and take for every such last-mentioned Letter or Packet the like rates of Sea Postage (over and above any Inland Rates) as under or by virtue of the said Act passed in the fifty-ninth year of the reign of King George the Third would be payable on such Letters and Packets, if the same were sent from *Great Britain*, and the Masters and Commanders of all Ships and Vessels sailing from *Ireland*, bound to the *Cape of Good Hope*, the *Mauritius*, *Ceylon* or the *East Indies*, are hereby required to receive on board their respective Ships any Bag or Bags of Letters and Packets which shall be tendered to them for conveyance as aforesaid, by the Postmaster General or any Officer of the Post Office, without receiving or being entitled to receive any remuneration for such conveyance.

13. Clause (C.) Repeal of Postage on Newspapers by Private Ships from the Colonies.

AND whereas by an Act passed in the seventh and eighth years of the reign of his late Majesty King George the Fourth, intituled, "An Act to amend the Laws relating to the Duties of Postage in *Great Britain* and *Ireland*," the Postmaster General is authorized to demand and receive for the use of His Majesty, His heirs and successors, for every Newspaper printed within His Majesty's Colonies and Possessions beyond the Seas, and brought into *Great Britain* and *Ireland*, by any Ship other than a Packet, and delivered at any Post Office, the sum of Three-pence: And whereas Newspapers printed within the United Kingdom, and sent from thence by Ships and Vessels (other than Packet Boats) to His Majesty's Colonies and Possessions beyond the Seas (other than and except the *East Indies*), are now liable to the same Rates and Duties of Postage as Letters: And whereas it is expedient that the Rates of Postage on all such Newspapers should be reduced; BE it therefore further Enacted, That from and after the passing of this Act, so much of the said Act passed in the seventh and eighth years of the reign of King George the Fourth, as subjects Newspapers printed within His Majesty's Colonies and Possessions beyond the Seas, and brought into *Great Britain* and *Ireland* by Ships other than

Packets, to a rate of Three-pence each, shall be and the same is hereby Repealed.

14. CLAUSE (D.) Sea Postage on Newspapers by Private Ships from the Colonies.

And be it further Enacted, That from and after the passing of this Act, it shall be lawful for His Majesty's Postmaster General, and his Deputy and Deputies for the use of His Majesty, His heirs and successors, to demand and receive for the conveyance of every Newspaper printed within His Majesty's Colonies and Possessions beyond Seas, and brought into the United Kingdom by any Ship or Vessel other than a Packet Boat, and delivered by the Commander of any such Ship or Vessel at any Post Office, the sum of One Penny on delivery thereof within the United Kingdom, to the Person or Persons to whom the same shall be addressed.

15. CLAUSE (E.) Reduction of Postage on Newspapers sent by Private Ships to the Colonies.

And be it further Enacted, That it shall be lawful for His Majesty's Postmaster General for the time being, and his Deputy and Deputies in *Great Britain* and *Ireland*, to receive at any Post Office printed Newspapers liable to the Stamp Duty, and duly stamped, directed to places within any of His Majesty's Colonies and Possessions beyond the Seas, and to forward the same by any Ships or Vessels that he in his discretion may think fit (not being Packet Boats), and to demand, have, receive and take for every Newspaper which shall be delivered to him or his Deputies for conveyance in manner last aforesaid the sum of

16. CLAUSE (F.) Reduction of Postage on Newspapers by Private Ships, to and from Foreign Ports.

AND whereas Foreign Newspapers brought into the United Kingdom by Ships or Vessels other than Packet Boats, and Newspapers printed within the United Kingdom, and sent from thence by Ships and Vessels other than Packet Boats to Foreign Parts, are now liable, on conveyance by the Post, to the same Rates and Duties of Postage as Letters, and it is expedient that the Rates on all such Newspapers should be reduced; BE it therefore further Enacted, That from and after the passing of this Act, it shall be lawful for His Majesty's Postmaster General, and his Deputy and Deputies in *Great Britain* and *Ireland*, to receive at any Post Office printed Newspapers liable to the Stamp Duty and duly stamped, directed to any Kingdom or Country beyond the Seas (other than His Majesty's Colonies and Possessions), and to forward the same to any Foreign Port by any Ships or Vessels that he in his discretion may think fit (not being Packet Boats), and to demand, have, receive and take for the use of His Majesty, His heirs and successors, for every Newspaper which shall be delivered to him or his Deputies for conveyance in manner last aforesaid, the sum of One Penny and for every Newspaper printed in any Kingdom or State beyond the Seas (other than His Majesty's Colonies and Possessions), and brought into the United Kingdom by

by any Ship or Vessel (other than a Packet Boat), and delivered by the Commander of any such Ship or Vessel at any Post Office, (if printed in the language of the Foreign Kingdom or State from which the same shall be forwarded, but not otherwise), it shall be lawful for His Majesty's Postmaster General and his Deputy and Deputies, for the use of His Majesty, His heirs and successors, to demand and receive the sum of One Penny on delivery thereof within the United Kingdom to the Person or Persons to whom the same shall be addressed: Provided always, That before any Newspapers to or from any Foreign Kingdom or State shall be permitted to be conveyed or delivered under the provisions of this Clause, satisfactory proof shall have been laid before the Postmaster General for the time being, that printed Newspapers sent from *Great Britain* and *Ireland*, addressed to any Person or Place in any such Foreign Kingdom or State, are allowed to pass by the Post within any such Foreign Kingdom or State free of Postage, and also, that Newspapers addressed to any Person or Place in *Great Britain* or *Ireland* from any such Foreign Kingdom or State, are allowed to pass by the Post within such Foreign Kingdom or State free of Postage; and it is hereby declared, That as to every Newspaper put into any Post Office within *Great Britain* or *Ireland*, for conveyance by Ships or Vessels other than Packet Boats, addressed to any Person or Place in any Foreign Kingdom or State, in which printed Newspapers from *Great Britain* or *Ireland* shall not be allowed to pass by the Post free of Postage, it shall be lawful for His Majesty's Postmaster General for the time being (until such satisfactory proof shall be laid before him as aforesaid), and his Deputy and Deputies, for the use of His Majesty, His heirs and successors, to demand, have, receive and take for the conveyance of every such printed Newspaper to any Foreign Port, the sum of Two-pence; and as to every Newspaper addressed to *Great Britain* or *Ireland*, and brought into the United Kingdom by any Ship or Vessel other than a Packet Boat, from any Foreign Kingdom or State in which such printed Newspapers shall not be allowed to pass by the Post free of Postage, it is hereby declared, that it shall be lawful for His Majesty's Postmaster General for the time being (until such satisfactory proof shall be laid before him as aforesaid), and his Deputy and Deputies, to and for the use of His Majesty, His heirs and successors, to demand, have, receive and take for the conveyance of every such Newspaper by the Post, the sum of Two-pence on delivery thereof to the Person to whom the same shall be addressed, over and above and in addition to any Postage charged thereon by any Foreign Post Office, provided every such paper be printed and published in the language of the Kingdom or State from which the same shall be forwarded.

17.
CLAUSE (G.) Postage on Newspapers to and from Foreign Parts.

AND whereas circumstances may arise which may render it expedient again to impose and demand the said respective rates of Two-pence, by the said last-mentioned Clause granted, after the same shall have ceased to be demanded by reason of such satisfactory proof having been laid before the Postmaster General for the time being as aforesaid; NOW be it further Enacted, That it shall be lawful for His Majesty's Postmaster General for the time being, by and with the consent of the Lords Commissioners of His Majesty's Treasury, or any Three or more of them, at any time after such satisfactory proof shall have been laid before His Majesty's Postmaster General for the time being as aforesaid, again to impose, demand and receive the said respective rates of Two-pence for the conveyance of any such printed Newspaper to any Foreign Port, and on the delivery of any such printed Newspaper from any Foreign Kingdom or State, whenever it shall be deemed expedient so to do.

18.
CLAUSE (H.) Allowance to Masters and Commanders, on Newspapers delivered to or by them from or to the Post Office.

And be it further Enacted, That it shall be lawful for the Postmaster General to allow and pay the Masters and Commanders of Ships and Vessels the sum of One Penny on every printed Newspaper which shall be brought into the United Kingdom under the provisions of this Act, and be delivered by them at the Post Office of the Post Town at which they shall touch or arrive, and the like sum of One Penny on every printed Newspaper which shall be delivered by the Postmaster General or his Deputies to any such Masters or Commanders for conveyance under the provisions of this present Act.

19.
Not to alter Rates under Act 59 Geo. 3.

Provided always, and be it further Enacted, That nothing herein contained shall extend, or be deemed or construed to extend, to alter or repeal any of the rates which the Postmaster General and his Deputy and Deputies are authorized to demand, have, receive and take by the said Act passed in the fifty-ninth year of the reign of King GEORGE the Third, for printed Newspapers delivered to him or them for conveyance to the *Cape of Good Hope*, *Ceylon*, the *Mauritius* or the *East Indies*, which Act it is hereby declared shall be deemed and construed to extend to Newspapers posted in *Ireland*, for conveyance to any of the said last-mentioned places.

20.
Newspapers to be sent without a cover, or in a cover open at the ends.

And be it further Enacted, That no Newspaper shall be sent by the Post under the provisions of this present Act, unless every such Paper be sent without a cover, or in a cover open at the sides, and that there be no words or communication printed on such Paper after the same shall have been published, nor any writing or marks upon such printed Paper, or the cover thereof, other than the Name and Address of the Person to whom it is sent, and so that there be

no Paper or thing enclosed or concealed in or with such printed Paper, or the cover thereof, nor any printed words or communication on the cover thereof.

21. Newspapers sent out of the Kingdom, to be put into the Post within Seven Days from the time when printed.

And be it further Enacted, That every printed Newspaper to be sent out of the United Kingdom under the provisions of this Act, shall in all cases be put into a Post Office or Receiving Office in *Great Britain* or *Ireland* within Seven Days next after the day on which the same shall be published, the day of publication to be ascertained by the date of such Paper; and in case any such Paper shall be put into any Post Office at any time after the expiration of such Seven Days, it shall and may be lawful for His Majesty's Postmaster General, or his Deputy or Deputies, at his or their discretion, either to detain any such Paper, or to forward the same by the Post charged with the full Duty of Letter Postage, according to the Rates now established by Law.

22. Postmaster-General may examine Newspapers sent by the Post.

And be it further Enacted, That it shall be lawful for His Majesty's Postmaster General, and his Deputy and Deputies, or any of the Officers employed under him or them respectively, to examine and search any printed Newspaper which under the provisions of this Act shall be sent by the Post without a cover, or in a cover open at the sides as aforesaid, in order to discover whether any words or communication have or has been printed on such Paper after the same was published, or whether there is any writing or mark upon such printed Paper, or the cover thereof, other than the Name and Address of the Person to whom it is sent, or whether there is any Paper or thing enclosed or concealed in or with such printed Newspaper, or the cover thereof, or whether there are any printed words or communication on the cover thereof, or whether the Papers brought into the United Kingdom from any Foreign Kingdom or State shall be printed and published in the language of the Kingdom or State from which they shall have been forwarded, and also in order to discover whether Newspapers printed and posted in the United Kingdom are duly stamped; and in case any words or communication shall be found to have been printed on any such Paper after the same was published, or any writing or mark shall be found on any such printed Paper, or the cover thereof, other than the Name and Address of the Person to whom it is sent, or any other Paper or thing shall be found to be enclosed or concealed in or with such printed Paper, or the cover thereof as aforesaid, or any printed words or communication shall be found upon the cover thereof, or in case any Newspaper brought into the United Kingdom from any Foreign Kingdom or State shall not be printed and published in the language of the Kingdom or State from which the same shall have been forwarded, the whole of every such Packet addressed and delivered to any Person

within the United Kingdom, shall be charged with Treble the Duty of Letter Postage, according to the rates now established by law; and as to every such Paper or Packet going out of the United Kingdom, it shall be lawful for the Postmaster General, or his Deputy or Deputies, at his or their discretion, either to detain any such Paper or Packet, or to forward the same by the Post charged with the Duty of Letter Postage; and in case any Newspaper printed and posted in the United Kingdom, and sent by the Post under the provisions of this Act, shall appear not to have been duly stamped, the same shall be stopped and sent to the Commissioners of Stamps either at *London* or *Dublin*, as the case may be.

23. CLAUSE (I.) Papers to be delivered to the Postmaster General at such Hours as he shall appoint.

And be it further Enacted, That all printed Papers to be conveyed by the Post under the provisions of this Act, shall be delivered to the Postmaster General, or his Deputy or Deputies, at such hours in the day and under all such regulations as the Postmaster General for the time being shall in his discretion from time to time appoint.

24. CLAUSE (K.) Repeal of the 24th Section of the 9th Queen Anne, c. 10.

And be it further Enacted, That so much of an Act passed in the ninth year of the reign of Queen ANNE, intituled, "An Act for establishing a General Post Office for all her Majesty's Dominions, and for settling a weekly sum out of the Revenues thereof for the service of the War and other her Majesty's occasions," as enacts, that if the Packet or Mail shall be carried out of *Great Britain*, into any part or place beyond the Seas, in any Ship or Vessel which is not a Free Ship, and navigated with such Seamen as by the laws of this land the same are required to be, the Postmaster General for the time being shall in every such case forfeit the sum of One hundred Pounds sterling, shall be and the same is hereby Repealed.

25. Rates to be paid into the hands of the Receiver-General.

And be it further Enacted, That the several Rates and Duties of *British* Postage hereinbefore granted, shall be paid from time to time into the hands of the Receiver General for the time being of the Revenue of the Post Office, who shall pay the same (the necessary charges for collecting, paying and accounting for the same being first deducted), into the Receipt of His Majesty's Exchequer, on such days and times and in such manner as the present Rates and Duties are directed by law to be paid; and the said Duties so to be paid into the said Receipt as aforesaid, shall be carried to and made part of the Consolidated Fund of *Great Britain*.

26. Recovery of Arrears of Postage, by Distress of Goods.

And be it further Enacted, That so often as any sum or sums of money, not exceeding Twenty Pounds, shall be due from any Person or Persons in *Great Britain* or *Ireland* (whether under this Act, or under

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under any other Act or Acts relating to the Post Office), for the Postage of any Letter or Packet, Letters or Packets, to him her or them delivered by any Deputy, Agent or Letter Carrier under His Majesty's Postmaster General, or which shall be due from any Deputy, Agent or Letter Carrier in *Great Britain* or *Ireland*, for the port of any Letters or Packets to him her or them entrusted for delivery under the authority of the said Postmaster General, or from any other Person or Persons employed, or to be employed, in receiving or collecting the Postage of Letters or Packets, or any of the Post Office Revenue, it shall be lawful for any Constable, Tithing-man or other Peace Officer of the County, Riding, Division, City, Town or Place where such Person or Persons shall reside, first obtaining a warrant for that purpose, under the hand and seal, or hands and seals, of any one or more of His Majesty's Justices acting in and for such County, Riding, Division, City, Town or Place (which Justice or Justices, on complaint made to him or them, shall summon the party complained of, and the Witnesses on either side, and examine into the matter of fact, and shall grant such warrant, on due proof being made of the sum or sums due and owing from such Person or Persons as aforesaid, by the voluntary confession of the party, or by the oath of one or more Witness or Witnesses), to distrain such Person or Persons by his her or their goods and chattels for the amount of such debt; and the distress so to be taken to detain and keep for the space of Five Days at the costs and charges of such Person or Persons; and if he she or they shall not within the time pay the amount of such debt, with the costs and charges of taking and keeping such distress, then the goods and chattels so distrained shall be sold by such Constable, Tithing-man or other Peace Officer, who shall render the overplus (if any) of the money arising by the sale thereof, after deducting and retaining the amount of such Debt, and the costs and charges of taking, keeping and selling such distress, to the Person or Persons so to be distrained as aforesaid; and, for the purpose of taking such distress, it shall be lawful for such Constable, Tithing-man or other Peace Officer, when any refusal or resistance shall be made, to break open in the day-time any house or place where any goods or chattels of such Person or Persons shall be; and if no sufficient Distress can be had or taken whereon to levy the said Debt and Charges, then such Justice or Justices shall commit such Person or Persons to the Prison of such County, Riding, Division, City, Town or Place, there to remain until such Debt and Charges shall be fully paid and satisfied.

27. Proceedings to be in the Form specified in the Schedule.

And be it further Enacted, That every Complaint, Information, Summons, Conviction, Warrant of Distress or Commitment, or other such proceeding, which shall be had or taken under the provisions of

of this Act for the recovery of any Postage or Postage Debt, may be drawn or made out according to the several Forms contained in the Schedule hereunto annexed, or to the effect thereof, *mutatis mutandis*, as the case shall require; and every such Complaint, Information, Summons, Conviction, Warrant, or other such proceeding, which shall be so drawn or made out, shall be good and effectual to all intents and purposes whatsoever, without stating the case or the facts or evidence in any more particular manner than is required in and by such forms respectively; and that wherever the term "Officer of the Post Office" occurs in this Act, or the Schedule thereto, the same shall be construed to mean and include any Deputy, Agent, Officer, Clerk, Letter Carrier or other Person employed by or under the Post Office, whatever may be his particular office or employment; and that whenever the term "*East Indies*" occurs in this Act, the same shall be construed to mean and include every Port and Place within the limits of the charter of the United Company of Merchants commonly called The *East India* Company; and that wherever in this Act, or the Schedule thereto, with reference to any person, matter or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, Bodies Politic or Corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

28. Limitation of Actions.

And be it further Enacted, That all Actions and Prosecutions which shall be brought or commenced against any Person for any thing done in pursuance or under the authority of this Act, shall be commenced and prosecuted within Three calendar Months next after the fact committed, and not afterwards, and shall be brought and tried in the County or Place where the cause of Action shall arise, and not elsewhere; and notice in writing of such Action, and of the cause thereof, shall be given to the Defendant One calendar Month at least before the commencement of the Action, and the Defendant in such Action may plead the General Issue, and give this Act and any other matter or thing in evidence at any Trial to be had thereupon; and if the cause of Action shall appear to arise from any matter or thing done in pursuance and by the authority of this Act, or if any such Action shall be brought after the expiration of such Three calendar Months, or shall be brought in any other County or Place than as aforesaid, or if notice of such Action shall not have been given in manner aforesaid, or if tender of sufficient amends shall have been made before such Action commenced, or if a sufficient sum of money shall have been paid into Court after such Action

Action commenced, by or on behalf of the Defendant, the Jury shall find a Verdict for the Defendant; and if a Verdict shall pass for the Defendant, or if the Plaintiff shall become nonsuit, or shall discontinue any such Action, or if, on demurrer or otherwise, judgment shall be given against the Plaintiff, the Defendant shall recover his or her full Costs of Suit as between Attorney and Client, and shall have the like remedy for the same as any Defendant may have for Costs of Suit in other cases at law; and although a Verdict shall be given for the Plaintiff in any such Action, such Plaintiff shall not have Costs against the Defendant, unless the Judge before whom the Trial shall be had shall at the time of such Trial certify in writing his approbation of the Action, and of the Verdict obtained thereupon.

29. Act may be altered.

And be it further Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed in this present Session of Parliament.

SCHEDULE

To which this ACT refers.

No. 1.

FORM of COMPLAINT whereon to found a WARRANT of DISTRESS for Recovery of POSTAGE.

County [*or, as the case may be*] of To wit. } BE it Remembered, That on this day of in the year of Our Lord at in the of *A. B.*, an Officer of the Post Office, complaineth to me, *C. D.* Esquire, one of His Majesty's Justices of the Peace for the said that the sum of is due and owing from *E. F.* of to His Majesty [*or*, to the said *A. B.*, *if the case be so*] for the Duty of Postage which he hath refused or neglected to pay; and thereupon the said *A. B.* prayeth of me, the said Justice, that the said *E. F.* may be summoned to appear, and show cause, if any he have, why, upon due proof being made of the sum due and owing from him for Postage as aforesaid, a Warrant of Distress should not be granted for recovery thereof, pursuant to the directions of the statute in that behalf made.

Taken and received by me the day and year first above written. }

No. 2.

FORM of a SUMMONS on the foregoing COMPLAINT.

To E. F. of, &c.

County [*or, as the case may be*] of To wit. } WHEREAS Complaint hath been made unto me, *C. D.*, Esquire, one of His Majesty's Justices of the Peace for the of that the sum of is due and owing from you to His Majesty [*or*, to *A. B.*, an Officer of the Post Office, *if the case be so*] for the Duty of Postage which you have refused or neglected to pay. These are therefore to summon you to be and appear at in the said on the day of at the hour of in the noon of the same day, before me the said Justice, or before such other of His Majesty's Justices of the Peace for the said as shall be then present,

present, in order that you may show cause, if any you have, why, on due proof being made of the sum of money due and owing from you for such Duty of Postage as aforesaid, a Warrant of Distress should not be granted for the recovery thereof, pursuant to the directions of the statute in that behalf made; and if you fail to appear accordingly, such proceedings will be taken as if you had appeared and had not shown any sufficient cause why such Warrant should not be granted. Given under my hand and seal this
day of

No. 3.

FORM of a WARRANT of DISTRESS, founded on the foregoing COMPLAINT.

To the Constable of [*or*, to *C. D.* of *as the case may be.*]

County [*or, as the case may be*] of To wit. } WHEREAS Complaint hath been made that *E. F.* of is indebted to His Majesty [*or*, to *A. B.*, an Officer of the Post Office, *if the case be so*] in the sum of for the Duty of Postage, which he hath refused or neglected to pay: And whereas the said *E. F.* hath been duly summoned, and due proof hath been made on oath before me that the sum of is due and owing from the said *E. F.* for such Duty of Postage as aforesaid, and that he hath neglected to pay the same; therefore I command you to distrain the said *E. F.* by his goods and chattels, and to levy thereon the said last-mentioned Sum, being the Amount of such Duty of Postage as aforesaid, and also the further Sum of for the Costs, Charges and Expenses of proceeding for and obtaining this Warrant, and of the Proceedings incident and relating thereto, making together the Sum of and if, within the space of Five Days next after the taking of such Distress, the Sum of together with the reasonable Costs and Charges of taking and keeping such Distress, shall not be paid, then I do hereby order and direct that you shall sell and dispose of the said goods and chattels which shall be so distrained, and that you shall levy and raise thereout the said Sum of and all reasonable Costs and Charges of taking, keeping and selling such Distress, rendering the overplus (if any) to the owner of the said goods and chattels, and you are to certify to me what you have done by virtue of this my Warrant. Given under my hand and seal this day of

(signed)
One of His Majesty's Justices of the Peace
for the said of

No. 4.

FORM of a WARRANT of COMMITMENT for want of sufficient DISTRESS, founded on the foregoing COMPLAINT.

To the Constable of in the of and also to the Keeper of the Common Gaol [*or*, House of Correction], at in the said

County [*or, as the case may be*] of To wit. } WHEREAS Complaint was made that *E. F.* of was indebted to His Majesty [*or*, to *A. B.*, an Officer of the Post Office, *if the case be so*], in the Sum of for the Duty of Postage, which he had refused or neglected to pay: And whereas the said *E. F.* was duly summoned, and due proof was made on oath that the sum of was due and owing from the said *E. F.* for such Duty of Postage as aforesaid, and that he had neglected to pay the same: And whereas a Warrant has been issued directed to *C. D.* of commanding him by distress and sale of the Goods and Chattels of the said *E. F.* to levy the said last-mentioned sum, being the amount of such Duty of Postage as aforesaid, due and owing from the said *E. F.*, and also the further sum of for the Costs, Charges and Expenses of proceeding for and obtaining the said Warrant, and of the proceedings incident and relating thereto, making together the Sum of and it now appearing to me, by the Oath of the said *C. D.* that no sufficient Distress can be found whereon to levy the said Duty, Costs and Charges [*or*, *in case an insufficient Distress shall have been taken*, and whereas the said *C. D.* hath certified to me that he hath, under the said Warrant, levied and raised the sum of only, and it now appearing to me, by the Oath of the said *C. D.* that no sufficient Distress can be found whereon to levy the residue of the said Duty, Costs and Charges]; Therefore I command you, the said Constable of to apprehend and take the said *E. F.*, and safely to convey him to the Common Gaol [*or*, House of Correction] of the said at in the said and there to deliver him to the Keeper thereof, together with this Warrant; and I do hereby command you the said Keeper to receive into your custody in the said Gaol [*or*, House of Correction], him the said *E. F.*, and him therein safely to keep until the said sum of or until the sum of the residue of the said Duty, Costs and Charges remaining, after deducting the said Sum of so levied and raised as aforesaid, shall be fully paid and satisfied.

Given under my hand and seal this day of

(signed)

One of His Majesty's Justice of the Peace for the said of

5 WILL. IV.—Sess. 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE,]

To extend the Accommodation by the Post to and from Foreign Parts, and for other purposes relating to the Post Office.

(*Prepared and brought in by Mr. Baring and Mr. Labouchere.*)

Ordered, by The House of Commons, *to be Printed,*
14 *June* 1835.

20 *July* 1835.

A

B I L L,

INTITULED,

AN ACT for effecting greater Uniformity of Practice in the Government of the several Prisons in *England* and *Wales*; and for appointing Inspectors of Prisons in *Great Britain*.

[Note.—*The Figures in the Margin denote the Number of Presses in the Ingrossment.*]

1 WHEREAS by the Laws now in force Rules and Regulations made for the government of certain Prisons, and for the Duties to be performed by the Officers of the same, are in *London* and *Middlesex* required to be submitted to the two Chief Justices, and elsewhere to certain other Justices, for approval, and to be approved of by them before they can be enforced; BE it Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT no such Rules and Regulations made after the passing of this Act shall be required to be submitted for approval, or to be approved of, otherwise than is hereinafter mentioned. Preamble:

1. Rules for Government of Prisons, &c. after passing of this Act, to be approved only as therein provided.

And be it Enacted, That all Rules and Regulations which shall be made after the passing of this Act by the Court of Mayor and Aldermen of the city of *London*, Justices of the Peace, or other Persons whatsoever, which they are now by law authorized to make for the government of any Prisons in *England* and *Wales*, or for the Duties to be performed by the Officers of such Prisons, shall 2 be submitted to one of His Majesty's Principal Secretaries of State, and it shall be lawful for such Secretary of State, if he thinks fit, to alter such Rules and Regulations, or to make additional Rules and Regulations thereto, and to subscribe a Certificate or Declaration that such Rules and Regulations as submitted to him, or altered or added

2. Manner in which such Rules are to be made and approved.

added to, are proper to be enforced; and when such Secretary of State shall have subscribed such Certificate or Declaration, such Rules and Regulations, alterations and additions, shall be binding upon the Sheriff and all other Persons, without any other sanction or approval: Provided also, That no Rule or Regulation, save as hereinafter is mentioned, which, after the passing of this Act, shall be made for any Prison within *England* and *Wales*, or for the duties to be performed by the Officers of such Prison, shall be enforced until a Certificate or Declaration shall have been duly subscribed by one of His Majesty's Principal Secretaries of State in manner aforesaid.

3. Justice of Peace empowered to commit Offenders to any House of Correction near the Place where the Assizes are to be holden at which they are to be tried.

WHEREAS great inconvenience and expense have been found to result from the practice of committing to the Common Gaol of the county Persons charged with the offences intended to be tried at the Assizes or Sessions holden for such county where such Assizes or Sessions are holden at places distant from such Common Gaol, and it is expedient that the law should be altered and amended; FOR 3
Remedy thereof, Be it Enacted, That from and after the passing of this Act it shall be lawful for any Justice of the Peace or Coroner, acting within their several jurisdictions in *England* and *Wales*, to commit for safe custody to any House of Correction, situate near to the place where such Assizes and Sessions are intended to be holden, any Person or Persons charged before them with any offence triable at such Assizes or Sessions; and that whenever any such Persons shall be committed to any such House of Correction for trial at such Assizes or Sessions, the Keeper of such House of Correction shall deliver to the Judges of Assize or Justices at Sessions a Calendar of all Prisoners in his custody for trial at such Assizes or Sessions respectively, in the same way that the Sheriff of the county would be by law required to do if such Prisoners had been committed to the Common Gaol of the county.

4. How Persons convicted of Offences for which they are liable to Death, &c. shall be disposed of.

And be it further Enacted, That whenever any Person shall be convicted at any Assizes or Sessions of any offence for which he or she shall be liable either to the punishment of death, transportation or imprisonment, it shall be lawful for the Court (if it shall so think fit) to commit such Person to any House of Correction for such county, in execution of his or her judgment; and in case of the 4
commitment of any Person sentenced to death, execution of such judgment shall and may be had and done by the Sheriff of the county; and in case of the commitment of any Person either sentenced to transportation, or pardoned for any capital offence on condition of transportation, all the powers, provisions and authorities for the removal of Offenders sentenced to transportation, given or granted by any former Act or Acts of Parliament to Sheriffs or Gaolers, shall be and the same are hereby extended and given to the Keepers of Houses of Correction in whose custody such last-mentioned Offenders shall be.

And

5. Clerks of Peace, &c. to transmit Copies of Prison Rules to Secretary of State, who may add to, or alter the same.

And be it Enacted, That on or before the First day of November in every year the Clerks of the Peace for every county, riding or division of a county in *England* and *Wales*, the Clerks of every Gaol Sessions, and the Chief Magistrates of every city, town, borough, port or liberty within *England* and *Wales*, now having any Prison, shall transmit copies of all Rules and Regulations in force on the Twenty-fifth day of September in such year for the government of every Prison for and belonging to their respective counties, ridings or divisions of counties, cities, towns, boroughs, ports and liberties, to one of His Majesty's Principal Secretaries of State, together with copies of such new or additional Rules and Regulations as may be proposed for the government thereof; and that it shall be lawful for such Secretary of State to alter such Rules or Regulations, copies whereof shall be transmitted to him in pursuance of this Act, and to make additional Rules or Regulations thereto, and to subscribe a Certificate or Declaration that such Rules and Regulations as transmitted to him, or altered or added to, are proper to be enforced; and the Rules and Regulations, alterations and additions so certified, shall be binding upon Sheriffs and all other Persons; and the Clerks of the Peace for every county, riding, or division of a county in *England* and *Wales*, the Clerks of every Gaol Sessions, and the Chief Magistrates of every such city, town, borough, port and liberty, are hereby required to lay before the Court of Quarter Sessions held next after the Twenty-fifth day of September in every year for their respective counties, ridings, divisions of counties, cities, towns, boroughs, ports and liberties, on the First day of such Sessions, like copies of all Rules and Regulations in force on the Twenty-fifth day of September in every year for the government of their respective Prisons.

Clerks of Peace, &c. to lay Copies of Prison Rules before the Court of Quarter Sessions.

6. In case Clerks of Peace, &c. neglect to send such Rules, Secretary of State to certify Rules for government of Prison.

And be it further Enacted, That in case of any Clerk of the Peace, Clerk of Gaol Sessions, or Chief Magistrate of any city, town, borough, port or liberty, neglecting or omitting to transmit to one of His Majesty's Principal Secretaries of State copies of the Rules or Regulations in force for the government of any Prison which he is required by this Act to transmit, it shall be lawful for one of His Majesty's Principal Secretaries of State, after the First day of December in every year, to certify what Rules and Regulations he deems necessary for the government of such Prison; and the Rules and Regulations so certified by such Secretary of State shall thenceforth be binding upon Sheriffs and all other Persons, and shall be the only Rules in force for the government of such Prison.

7. His Majesty to appoint Inspectors of Prisons.

And be it Enacted, That after the passing of this Act it shall be lawful for His Majesty, by warrant under His Sign Manual, to appoint, during His Majesty's pleasure, Five Persons to be Inspectors of Prisons and Penitentiaries now being, or which hereafter may be within *England* and *Wales*, and Two Persons to be Inspectors of Prisons now being or which hereafter may be within *Scotland*, and

from time to time, in case of the death or dismissal of any of them, to appoint another in the place of such deceased or dismissed Inspector; and it shall be lawful for such Inspectors, or any or one of them, whenever and so often as they shall think fit, to visit any Prison or Penitentiary in *England* and *Wales*, and in *Scotland* respectively, and inspect all matters relating to the condition thereof, and to the Rules and Regulations and Officers thereof, and to the Prisoners therein, and to examine upon oath all Persons touching such matters.

Powers of Inspectors.

7

8.

Inspectors to keep Minutes of their Proceedings, and make an annual Report to the Secretary of State and to Parliament.

And be it Enacted, That every such Inspector shall keep full Minutes of all his Visits to such Prisons or Penitentiaries, and of all his Proceedings relating thereto, and shall make a report thereof to one of His Majesty's Principal Secretaries of State on or before the First day of January in every year, and oftener if required by such Secretary of State; and every such Report touching Prisons and Penitentiaries within *England* and *Wales* shall contain a Return of the State of each Prison and Penitentiary up to the Twenty-fifth day of September in each year; and a copy of every such annual Report shall be laid before both Houses of Parliament within Fourteen Days next ensuing the receipt thereof by such Secretary of State, if the Parliament shall be then sitting, or within Fourteen Days after the time when Parliament shall next sit.

9.

Annual Returns to the Justices to be made up to the 25th September in each year.

AND whereas by the laws now in force the Gaolers and Keepers of certain Prisons are required to make Reports in writing of the actual state and condition of such Prisons, and of the number and description of Prisoners confined therein, to the Justices at every General or Quarter Sessions, and also to make a Return of the state of such Prisons for the use of the Justices assembled at the Michaelmas Quarter Sessions in every year, one week before such Michaelmas Quarter Session for the year then ending; BE it Enacted, That all such Annual Returns for the use of the Justices aforesaid shall be made up to the Twenty-fifth day of September in each year, in like manner as the Returns contained in Reports made to one of His Majesty's Principal Secretaries of State as aforesaid.

8

10.

Secretary of State may authorize any Person to visit Prisons.

And be it Enacted, That it shall be lawful for any one of His Majesty's Principal Secretaries of State to visit and inspect, or to authorize in writing any Person or Persons to visit and inspect, any Prison or Prisons, or any Penitentiary or other place of confinement for Prisoners in *Great Britain*, upon any occasion which such Secretary of State may think expedient.

11.

His Majesty may order Prisoners to be removed from one Prison to another.

And be it Enacted, That it shall be lawful for His Majesty, by an order in writing, to be notified in writing by one of His Majesty's Principal Secretaries of State, to direct that any Persons in Prison within *England* and *Wales*, under sentence of any Court, or of any competent authority, for any offence committed by them, shall be removed

9 removed from the Prison in which they are confined to any other of His Majesty's Prisons or Penitentiaries within *England* and *Wales*, there to be imprisoned for and during their respective terms of imprisonment.

12. Where term of Imprisonment expires on Sunday, Prisoner to be discharged on the preceding Saturday.

And be it Enacted, That every Person confined in any Prison, whose term of imprisonment would, according to his or her sentence, have expired on any Lord's Day, shall be entitled to his or her Discharge from such Prison on the Saturday next preceding such Lord's Day; and every Keeper, Governor, or other Officer of any Prison having the custody of any such Prisoner as aforesaid, is hereby authorized and required to discharge such Prisoner on the Saturday next preceding any such Lord's Day.

13. Powergiven by 4 & 5 W. 4, c. 36, to His Majesty, to direct Persons sentenced to Imprisonment for Offences committed beyond limits of that Act, to be removed to Penitentiary, extended to Offences committed within the Limits.

AND whereas by an Act passed in the fourth and fifth years of the reign of His present Majesty, intituled, "An Act for establishing
10 a new Court for the Trial of Offences committed in the Metropolis and Parts adjoining," it was among other things enacted, that it shall be lawful for His Majesty, by an order in writing, to be notified in writing by one of His Majesty's Principal Secretaries of State, to direct that Persons who may be sentenced to imprisonment by any Court or competent authority for any offence committed beyond the limits of that Act, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed, shall be removed to the Penitentiary at *Milbank*, there to be imprisoned for and during their respective terms of imprisonment: AND whereas it is expedient that the like power should be given for directing Persons who shall be sentenced by any Court, or ordered by any competent authority, to be imprisoned for offences committed within the limits of the said Act, no less than for offences committed beyond the limits of the said Act; BE it therefore Enacted, That it shall be lawful for His Majesty, by an order in writing, to be notified in writing by one of His Majesty's Principal Secretaries of State, to direct that Persons who shall be sentenced by any Court, or ordered by any competent authority, to be imprisoned for any offence committed within the
11 limits of the before-recited Act, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed, shall be removed to the Penitentiary at *Milbank*, there to be imprisoned for and during their respective terms of imprisonment.

14. 800 Male Convicts may be confined in Penitentiary, instead of 600, as limited by 59 G. 3, c. 136.

AND whereas by an Act passed in the fifty-ninth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for the better Regulation of the General Penitentiary for Convicts at *Milbank*," it was among other things enacted, that any number of Convicts, not exceeding Six hundred Male and Four hundred Female Convicts, may, with the approbation of one of His Majesty's Principal Secretaries of State for the time being, be at one time

imprisoned, confined, employed, and managed in the said Penitentiary, under the provisions of the said Act and of a certain other Act therein recited: AND whereas it is expedient that power should be given to increase the number of Male Convicts to be confined in the said Penitentiary; BE it therefore Enacted, That any number of Male Convicts, not exceeding Eight hundred, may, with the approbation of one of His Majesty's Principal Secretaries of State for the time being, be at one time imprisoned, confined, employed, and managed in the said Penitentiary, under the provisions of the said last-recited Act and a certain other Act therein recited. 12

15. Act may be altered this Session.

And be it Enacted, That this Act may be amended, altered, or repealed by any Act to be passed in this present Session of Parliament.

6 WILL. IV.—Sess. 1835.

A

B I L L,

INTITULED,

AN ACT for effecting greater Uniformity of Practice in the Government of the several Prisons in *England* and *Wales*; and for appointing Inspectors of Prisons in *Great Britain*.

Ordered, by The House of Commons, to be Printed,
20 *July* 1835.

43

7 *August* 1835.

A

B I L L,

[AS AMENDED BY THE COMMITTEE]

INTITULED,

AN ACT for effecting greater Uniformity of Practice in the Government of the several Prisons in *England* and *Wales*; and for appointing Inspectors of Prisons in *Great Britain*.

[Note.—*The Figures in the Margin denote the Number of Presses in the Ingrossment.*]

[N.B.—*The Clauses marked* (A.) *to* (D.) *were added by the Committee.*]

1 WHEREAS by the Laws now in force Rules and Regulations made for the government of certain Prisons, and for the Duties to be performed by the Officers of the same, are in *London* and *Middlesex* required to be submitted to the two Chief Justices, and elsewhere to certain other Justices, for approval, and to be approved of by them before they can be enforced; BE it Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT no such Rules and Regulations made after the passing of this Act shall be required to be submitted for approval, or to be approved of, otherwise than is hereinafter mentioned.

Preamble:

1. Rules for Government of Prisons, &c. after passing of this Act, to be approved only as therein provided.

And be it Enacted, That all Rules and Regulations which shall be made after the passing of this Act by the Court of Mayor and Aldermen of the city of *London*, Justices of the Peace, or other Persons whatsoever, which they are now by law authorized to make for the government of any Prisons in *England* and *Wales*, or for the Duties to be performed by the Officers of such Prisons, shall 2 be submitted to one of His Majesty's Principal Secretaries of State, and it shall be lawful for such Secretary of State, if he thinks fit, to alter such Rules and Regulations, or to make additional Rules and Regulations thereto, and to subscribe a Certificate or Declaration that such Rules and Regulations as submitted to him, or altered or

2. Manner in which such Rules are to be made and approved.

added to, are proper to be enforced; and when such Secretary of State shall have subscribed such Certificate or Declaration, such Rules and Regulations, alterations and additions, shall be binding upon the Sheriff and all other Persons, without any other sanction or approval: Provided also, That no Rule or Regulation, save as hereinafter is mentioned, which, after the passing of this Act, shall be made for any Prison within *England* and *Wales*, or for the duties to be performed by the Officers of such Prison, shall be enforced until a Certificate or Declaration shall have been duly subscribed by one of His Majesty's Principal Secretaries of State in manner aforesaid.

3. Justice of Peace empowered to commit Offenders to any House of Correction near the Place where the Assizes are to be holden at which they are to be tried.

WHEREAS great inconvenience and expense have been found to result from the practice of committing to the Common Gaol of the county Persons charged with the offences intended to be tried at the Assizes or Sessions holden for such county where such Assizes or Sessions are holden at places distant from such Common Gaol, and it is expedient that the law should be altered and amended; FOR 3
Remedy thereof, Be it Enacted, That from and after the passing of this Act it shall be lawful for any Justice of the Peace or Coroner, acting within their several jurisdictions in *England* and *Wales*, to commit for safe custody to any House of Correction, situate near to the place where such Assizes and Sessions are intended to be holden, any Person or Persons charged before them with any offence triable at such Assizes or Sessions; and that whenever any such Persons shall be committed to any such House of Correction for trial at such Assizes or Sessions, the Keeper of such House of Correction shall deliver to the Judges of Assize or Justices at Sessions a Calendar of all Prisoners in his custody for trial at such Assizes or Sessions respectively, in the same way that the Sheriff of the county would be by law required to do if such Prisoners had been committed to the Common Gaol of the county.

4. How Persons convicted of Offences for which they are liable to Death, &c. shall be disposed of.

And be it further Enacted, That whenever any Person shall be convicted at any Assizes or Sessions of any offence for which he or she shall be liable either to the punishment of death, transportation or imprisonment, it shall be lawful for the Court (if it shall so think fit) to commit such Person to any House of Correction for such county, in execution of his or her judgment; and in case of the 4
commitment of any Person sentenced to death, execution of such judgment shall and may be had and done by the Sheriff of the county; and in case of the commitment of any Person either sentenced to transportation, or pardoned for any capital offence on condition of transportation, all the powers, provisions and authorities for the removal of Offenders sentenced to transportation, given or granted by any former Act or Acts of Parliament to Sheriffs or Gaolers, shall be and the same are hereby extended and given to the Keepers of Houses of Correction in whose custody such last-mentioned Offenders shall be.

And

5. Clerks of Peace, &c. to transmit Copies of Prison Rules to Secretary of State, who may add to, or alter the same.

And be it Enacted, That on or before the First day of November in every year the Clerks of the Peace for every county, riding or division of a county in *England* and *Wales*, the Clerks of every Gaol Sessions, and the Chief Magistrates of every city, town, borough, port or liberty within *England* and *Wales*, now having any Prison, shall transmit copies of all Rules and Regulations in force on the Twenty-fifth day of September in such year for the government of every Prison for and belonging to their respective counties, ridings or divisions of counties, cities, towns, boroughs, ports and liberties, to one of His Majesty's Principal Secretaries of State, together with copies of such new or additional Rules and Regulations as may be proposed for the government thereof; and that it shall be lawful for such Secretary of State to alter such Rules or Regulations, copies whereof shall be transmitted to him in pursuance of this Act, and to make additional Rules or Regulations thereto, and to subscribe a Certificate or Declaration that such Rules and Regulations as transmitted to him, or altered or added to, are proper to be enforced; and the Rules and Regulations, alterations and additions so certified, shall be binding upon Sheriffs and all other Persons; and the Clerks of the Peace for every county, riding, or division of a county in *England* and *Wales*, the Clerks of every Gaol Sessions, and the Chief Magistrates of every such city, town, borough, port and liberty, are hereby required to lay before the Court of Quarter Sessions held next after the Twenty-fifth day of September in every year for their respective counties, ridings, divisions of counties, cities, towns, boroughs, ports and liberties, on the First day of such Sessions, like copies of all Rules and Regulations in force on the Twenty-fifth day of September in every year for the government of their respective Prisons.

Clerks of Peace, &c. to lay Copies of Prison Rules before the Court of Quarter Sessions.

6. In case Clerks of Peace, &c. neglect to send such Rules, Secretary of State to certify Rules for government of Prison.

And be it further Enacted, That in case of any Clerk of the Peace, Clerk of Gaol Sessions, or Chief Magistrate of any city, town, borough, port or liberty, neglecting or omitting to transmit to one of His Majesty's Principal Secretaries of State copies of the Rules or Regulations in force for the government of any Prison which he is required by this Act to transmit, it shall be lawful for one of His Majesty's Principal Secretaries of State, after the First day of December in every year, to certify what Rules and Regulations he deems necessary for the government of such Prison; and the Rules and Regulations so certified by such Secretary of State shall thenceforth be binding upon Sheriffs and all other Persons, and shall be the only Rules in force for the government of such Prison.

7. Clause (A.) Power to appoint Inspectors of Prisons.

And be it Enacted, That it shall be lawful for one of His Majesty's Principal Secretaries of State to nominate and appoint a sufficient number of fit and proper Persons, not exceeding Five, to visit and inspect, either singly or together, every Gaol, Bridewell, House of Correction, Penitentiary, or other Prison or Place kept or used for the confinement of Prisoners, in any part of the Kingdom of *Great*

Britain; and every Person so appointed shall have authority to examine any Person holding any office or receiving any salary or emolument in any such Gaol, Bridewell, House of Correction, Penitentiary, Prison, or other place of confinement as aforesaid, and to call for and inspect all books and papers relating thereto, and to inquire into all matters touching and concerning such Gaol, Bridewell, House of Correction, Penitentiary, Prison, or other place of confinement; and every such Person so appointed shall, on or before the First day of February in every year, make a separate and distinct Report in writing of the state of every Gaol, Bridewell, House of Correction, Penitentiary, Prison, or other place of confinement visited by him, and shall transmit the same to one of His Majesty's Principal Secretaries of State; and a copy of every such Report shall be laid before both Houses of Parliament within Fourteen Days after such First day of February, if they shall be then assembled; or if Parliament shall not be then assembled, within Fourteen Days after the meeting thereof, after such First day of February.

8.
CLAUSE (B.) Penalty on obstructing Inspectors.

And be it further Enacted, That if any Person shall knowingly and wilfully obstruct anyperson so appointed in the execution of any of the powers intrusted to him by this Act, such Person shall, on conviction before a Justice of the Peace, forfeit and pay, for each and every such offence, any sum not exceeding Twenty Pounds; and in default of payment of any penalty so adjudged, immediately, or within such time as the said Justice shall appoint, shall be committed to Prison for any period not exceeding One calendar Month.

9.
CLAUSE (C.) Justice of the Peace may summon Offenders on compiaint being made.

And be it further Enacted, That it shall be lawful for a Justice of the Peace, on any complaint made to him against any person for any such offence, to issue his summons for the appearance of such person.

10.
Secretary of State may authorize any Person to visit Prisons.

And be it Enacted, That it shall be lawful for any one of His Majesty's Principal Secretaries of State to visit and inspect, or to authorize in writing any Person or Persons to visit and inspect, any Prison or Prisons, or any Penitentiary or other place of confinement for Prisoners in *Great Britain*, upon any occasion which such Secretary of State may think expedient.

11.
His Majesty may order Prisoners to be removed from one Prison to another.

And be it Enacted, That it shall be lawful for His Majesty, by an order in writing, to be notified in writing by one of His Majesty's Principal Secretaries of State, to direct that any Persons in Prison within *England* and *Wales*, under sentence of any Court, or of any competent authority, for any offence committed by them, shall be removed from the Prison in which they are confined to any other of His Majesty's Prisons or Penitentiaries within *England* and *Wales*, there to be imprisoned for and during their respective terms of imprisonment.

9

And

47

12. Where term of Imprisonment expires on Sunday, Prisoner to be discharged on the preceding Saturday.

And be it Enacted, That every Person confined in any Prison, whose term of imprisonment would, according to his or her sentence, have expired on any Lord's Day, shall be entitled to his or her Discharge from such Prison on the Saturday next preceding such Lord's Day; and every Keeper, Governor, or other Officer of any Prison having the custody of any such Prisoner as aforesaid, is hereby authorized and required to discharge such Prisoner on the Saturday next preceding any such Lord's Day.

13. Power given by 4 & 5 W. 4, c. 36, to His Majesty, to direct Persons sentenced to Imprisonment for Offences committed beyond limits of that Act, to be removed to Penitentiary, extended to Offences committed within the Limits.

AND whereas by an Act passed in the fourth and fifth years of the reign of His present Majesty, intituled, "An Act for establishing
10 a new Court for the Trial of Offences committed in the Metropolis and Parts adjoining," it was among other things enacted, that it shall be lawful for His Majesty, by an order in writing, to be notified in writing by one of His Majesty's Principal Secretaries of State, to direct that Persons who may be sentenced to imprisonment by any Court or competent authority for any offence committed beyond the limits of that Act, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed, shall be removed to the Penitentiary at *Milbank*, there to be imprisoned for and during their respective terms of imprisonment: And whereas it is expedient that the like power should be given for directing Persons who shall be sentenced by any Court, or ordered by any competent authority, to be imprisoned for offences committed within the limits of the said Act, no less than for offences committed beyond the limits of the said Act; BE it therefore Enacted, That it shall be lawful for His Majesty, by an order in writing, to be notified in writing by one of His Majesty's Principal Secretaries of State, to direct that Persons who shall be sentenced by any Court, or ordered by any competent authority, to be imprisoned for any offence committed within the
11 limits of the before-recited Act, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed, shall be removed to the Penitentiary at *Milbank*, there to be imprisoned for and during their respective terms of imprisonment.

14. Clause (D.) Powers contained in Penitentiary Acts extended to all Prisoners confined therein.

And be it further Enacted, That all provisions and regulations expressed and contained in any Acts made for the government of the General Penitentiary at *Milbank*, and all powers given by such Acts for the confinement, employment and management of Convicts confined therein, shall be applicable and made available in respect to all persons removed to and confined in the said Penitentiary by virtue of this Act, and the Act before recited.

15. 800 Male Convicts may be confined in Penitentiary, instead of 600, as limited by 59 G. 3, c. 136.

AND whereas by an Act passed in the fifty-ninth year of the reign of his late Majesty King George the Third, intituled, "An Act for the better Regulation of the General Penitentiary for Convicts at *Milbank*," it was among other things enacted, that any number of Convicts, not exceeding Six hundred Male and Four hundred

Female Convicts, may, with the approbation of one of His Majesty's Principal Secretaries of State for the time being, be at one time imprisoned, confined, employed, and managed in the said Penitentiary, under the provisions of the said Act and of a certain other Act therein recited: AND whereas it is expedient that power should be given to increase the number of Male Convicts to be confined in the said Penitentiary; BE it therefore Enacted, That any number of Male Convicts, not exceeding Eight hundred, may, with the approbation of one of His Majesty's Principal Secretaries of State for the time being, be at one time imprisoned, confined, employed, and managed in the said Penitentiary, under the provisions of the said last-recited Act and a certain other Act therein recited. 12

16. Act may be altered this Session.

And be it Enacted, That this Act may be amended, altered, or repealed by any Act to be passed in this present Session of Parliament.

6 WILL. IV.—Sess. 1835.

A

B I L L,

[AS AMENDED BY THE COMMITTEE]

INTITULED,

AN ACT for effecting greater Uniformity of Practice in the Government of the several Prisons in *England* and *Wales*; and for appointing Inspectors of Prisons in *Great Britain*.

Ordered, by The House of Commons, *to be Printed,*
7 *August* 1835.

483.

16 *July* 1835.

49

A

B I L L

To facilitate the Formation and Establishment of Public Institutions for the diffusing of Literary and Scientific Information, including Libraries and Museums, with commodious Halls or Places of Public Meeting for Business or Entertainment, within such Cities, Boroughs and Towns as may require them for the use and accommodation of their Inhabitants.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS it is expedient to encourage and promote the formation and establishment of Public Institutions for the diffusion of Literary and Scientific Information, including Libraries and Museums, with commodious Halls or Places of Public Meeting for business or entertainment, within such Cities, Boroughs and Towns as may require the same for the use and accommodation of their Inhabitants; BE it therefore Enacted by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in all cases in which *Fifty* Rate-payers of any City, Borough or Town shall sign and send a Requisition to the Mayor or other chief civil authority of such Town, requesting him to call a Public Meeting of the inhabitants of the same, for the purpose of considering the expediency of establishing within the Town such Public Institutions as are hereinbefore described, it shall be lawful for the said Mayor so to do; and in the event of his declining to accede to such Requisition, when duly signed and presented to him by any *Three* or more of the Requisitionists, by whom the same may have been signed, or in case of his neglecting to comply with their request within *Three* clear

1. Rate Payers may call a Meeting upon the subject of this Act.

days after its delivery to him, it shall then be lawful for the said *Three* Requisitionists themselves to call such Public Meeting of the Inhabitants in any usual place of assembling within the Town, after giving *Three* clear days' notice of the same to the Mayor.

2. Meeting to decide whether Public Institutions shall be established.

And be it Enacted, That such Public Meeting being assembled, the question shall be publicly proposed by the Chairman of the same, and submitted to the open discussion of those present, as to whether it is expedient that such Public Institutions for the diffusion of Literary and Scientific Information as aforesaid, should be formed and established within the Town in which such Public Meeting may be held; the costs of such undertaking to be chargeable, by way of assessment, on the rentals of the premises held and occupied by the inhabitants of the same.

3. Decision to be taken by vote.

And be it Enacted, That the decision of this question shall be submitted to the vote at the close of such Meeting, by a show of hands in the usual manner, and the declaration of the majority be publicly made on the spot by the Chairman of the Meeting; but in the event of a poll being demanded by any *Three* Rate-payers, such poll shall be taken in the manner usually observed in similar cases within the Town.

4. The whole of the Rate-payers to be bound by the decision of the Meeting.

And be it Enacted, That in the event of a clear majority of the Rate-payers being found, by such poll, to be in favour of the proposed resolution, the whole of the Rate-payers of the Town shall be bound by the act of such majority, and be liable to contribute, in the proportion of their respective rentals, to such assessments as may be subsequently levied by the proper authorities, to carry the resolution into effect, within the limited amount of rating, to be hereinafter prescribed.

5. A Committee to be appointed.

And be it Enacted, That within *Three* clear days after such decision of the majority as aforesaid, the Rate-payers shall proceed to elect, from among the resident householders of the Town, a Committee, to consist of *Twenty-one* persons, to be called "The Committee of Public Instruction," to whom shall be confided the direction of all matters necessary for the execution and management of the Public Institutions to be formed and established under the powers of this Act.

6. Mode of Election to be the same as in Municipal Questions.

And be it Enacted, That in all Corporate Towns, the mode of taking the poll on the original resolution, and for the election of the Members of Committee, shall be the same as that followed in all municipal questions submitted to the decision of the Burgesses; and in all other Towns, the mode of taking the poll shall be that in ordinary

nary use within such Towns for the decision of controverted questions in the management of their local affairs.

7. Persons contributing a certain amount, to be Governors for life.

And be it Enacted, That in order to encourage the wealthy Inhabitants of Towns, and the Gentry of the neighbourhood, to come forward voluntarily to assist in the support of such Public Institutions for the diffusion of Literary and Scientific Information, the rank of Governor for Life shall be conferred, without election, on every person contributing the sum of *One hundred* Pounds as a donation, and the rank of Annual Governor shall be conferred, without election, on every person contributing *Ten* Pounds per annum as subscription, so long as such annual subscription shall be continued; and such Life Governors and Annual Governors shall enjoy and exercise all the privileges of elected Members of the Committee.

8. One-third of the Committee shall go out annually.

And be it Enacted, That the retirement of *One-third* of the Members of the Committee annually, and the filling up of the vacancies occasioned by such retirement, or by deaths, shall be regulated by the same rules as those prescribed by the Municipal Corporation Act, for the retirement and election of the Members of Council.

9. Committee to make Buildings, &c.

And be it Enacted, That the Committee of Public Instruction, being thus formed, shall have power to procure designs and plans for the buildings required to form such Literary and Scientific Institutions, with Libraries, Museums, Halls, and other requisite accommodation, as aforesaid, with estimates of their cost, and to determine on the expediency of forming and establishing only a part or the whole of the several works enumerated, as in their judgment may seem meet: Provided always, That the competition for such designs, plans and estimates shall be open to surveyors, architects and artists of all classes, and that the selection or preference of any of those over others for actual adoption, shall be left entirely to the judgment of the Committee.

10. Power to borrow Money.

And be it Enacted, That the amount of the capital required for the completion of such Public Institutions as may be determined on, having been ascertained, it shall be lawful for the said Committee to borrow the requisite sum for that purpose: Provided always, That such sum shall in no case exceed the proportion of *Ten* Shillings for every inhabitant of such place, according to the latest official census of the population of the same.

11. Mode of redeeming the Principal, and paying Interest.

And be it Enacted, That the annual payment of the Interest, and the gradual redemption of the Principal of such sum so borrowed, shall be provided for in manner following: a Public Stock or Fund shall be created, to be open for the investment of money, in the

manner of other Public Funds, and transferrible by Shares of *One hundred* Pounds each, bearing interest at *Five* Pounds per centum per annum, and redeemable in *Twenty* Years, by the paying off of *Five* Pounds per centum of the principal in every year, so that at the end of *Twenty* Years the whole of the Buildings forming the Public Institution may be free of any incumbrance or charge on the funds of the Town.

12. Power to levy an Assessment.

And be it Enacted, That for the payment of the said interest or such capital, and the annual redemption of *Five* Pounds per centum of the principal, as before described, the said "Committee of Public Instruction" shall be authorized to levy a half-yearly Assessment on the rental of all the dwellings and other premises usually paying rates within the Town; such Assessment, however, not to exceed, in any case, the sum of *Threepence* in the Pound on each Assessment, or *Sixpence* in the Pound on the rental within the entire year.

13. Recovery of Assessment.

And be it Enacted, That the collection and recovery of the Sums assessed by order of the "Committee of Public Instruction" for the purposes aforesaid, whether in Corporate Towns or otherwise, shall be effected in the same manner in which the Rates for other local purposes are collected and recovered within such Towns respectively.

14. Rules to be followed by the Committee.

And be it Enacted, That the following shall be considered as primary objects, to be secured in any Public Institutions erected by the powers of this Act:—1. A spacious Hall, provided with fires, lights, tables and chairs as required, to serve as a Hall of Social Meeting for the Labouring Classes, at those periods of the year when recreation in the open air is impracticable: 2. Smaller Rooms, for the meetings of Benefit Clubs, Sick Societies, Trade Committees or other Local Associations of mutual relief or business, or study, or for the payment of wages or sale of goods, or any other objects for which such rooms are in constant requisition, but are now rarely to be procured, except at taverns and public-houses: 3. A Theatre, adapted for the delivery of Literary and Scientific Lectures, and for the exhibition of illustrative experiments, and containing the usual subdivision of seats, as in dramatic theatres, for the separate accommodation of different classes of Society: 4. A Library, Reading Rooms, Museum and Picture Gallery, adapted for the arrangement of such books, pictures, statuary, specimens of natural history, and rare productions of nature and art, as may, by purchase or gift, be progressively accumulated in each: 5. That no Beer, Wine, Spirits or intoxicating drinks of any kind be permitted to be brought within the Public Institution, on pain of exclusion to the offending party for the period of a year at least; but

but that refreshment of every other description, except intoxicating drinks alone, be permitted to be supplied to the Visitors by Persons appointed by the said Committee, and subject entirely to their discretion.

15. Committee may make other Rules.

And be it Enacted, That the said Committee may from time to time procure and pass such other Rules and Regulations as they may deem necessary, for the preservation of order and decorum in every department of the Public Institution, and fix such moderate rates of payment for admission to the several parts of the same as in their judgment may be sufficient to cover the current expense of the various supplies required for maintaining the Institution in full efficiency, keeping in view, however, the expediency of limiting such rates of admission to the lowest amount compatible with such efficiency, and with the comfort of the Visitors of the Institution.

16. Minutes of Proceedings to be kept.

And be it Enacted, That a Record shall be kept of all the Minutes of the said Committee, with Reports of their Proceedings at such Meetings as they may hold from time to time for purposes of business, and that such Minutes and Reports shall be signed by at least *Seven* of the members present at such Meetings, as forming the quorum of such Committee, and without the presence of that number no Resolutions shall be valid or binding upon the rest; and that an account shall be also kept of all receipts and disbursements connected with the Public Institution authorized to be formed and established by this Act, or with the business of the said Committee within the year.

17. Committee to appoint Treasurer and other Officers.

And be it Enacted, That for the purposes aforesaid, the said Committee shall be authorized to appoint and employ a Treasurer, Auditor, Clerks, Collectors and such other Officers and Persons as may to them seem necessary to carry on the business of the Committee, with such salaries, and under such securities as may be proportioned to the responsibility vested in them respectively, and under full liability to such Rules and Orders as the Committee may think proper to frame for the regulation of their conduct, in the execution of their duties.

18. Minutes and Accounts to be published annually.

And be it Enacted, That at the end of every year, or within *Three* Months at the farthest, after the annual election of the Members of the Committee, who are to go out by rotation, a Report of the past year's progress and proceedings shall be published, under the signature of the President or Chairman of the Committee for the time being, and countersigned by the Treasurer, Auditor and Clerk, containing detailed Accounts of all Receipts and Payments, as well as all Minutes of the Proceedings of the said Committee; and that a

printed copy of such Report shall be sent by the Clerk or Collector of such Committee to the residence of every Rate-payer who may have been assessed for the purposes aforesaid.

19. Committee not to be liable for Expenses incurred previous to their Institution.

And be it Enacted, That the expenses of all the preliminary proceedings, previous to the formation of the Committee of Public Instruction, in manner before described, shall be borne by the requisitionists, and provided for by public subscriptions or by such other means (not compulsory) as they may see fit; but in the event of the original Resolution submitted to the Public Meeting being carried in the affirmative and the Committee being duly appointed, the expenses of all subsequent proceedings shall then be defrayed out of the funds to be levied by the general assessment for which this Act provides.

20. Meetings upon requisition, not to be made more than once in a year.

And be it Enacted, That in the event of the majority of the Rate-payers of any Town voting against the original Resolution, and thereby declaring it to be inexpedient to adopt, for the time being, any further proceedings as to the formation and establishment of any Public Institution for the diffusion of Literary and Scientific Information within the same, it shall not be lawful to make any other requisition for the purpose of calling any Public Meeting to discuss the same question, within a period of less than *One* year from the time of such decision.

21. Explanation of certain words in Act

And be it Enacted, That in the construction of this Act, the word "Town" shall be construed to mean City, Borough, Town or any other Place usually understood by that term; and the word "Mayor" shall be construed to mean Mayor, Boroughreeve, Constable, Bailiff, Senior Magistrate or chief civil authority, by whatever title usually recognized, within the Town or Place in which his authority is exercised; that in all Corporate Towns, the words "Rate-payers" shall be construed to mean all Persons who are included in the Burgess Roll of such Town, and as such are entitled to vote at the election of Members for the Municipal Council; and that in all other Towns, the words, "Rate-payers" shall be construed to mean all Persons who are included in the Registry of the Town or Parish, and as such are entitled to vote at the election of Parish Officers within the same.

22. Commencement of Act.

And be it Enacted, That this Act shall commence and take effect from and after the *First* day of *October*, in the year of our Lord *One thousand eight hundred and Thirty-five.*

23. Act to extend to Great Britain and Ireland.

And be it Enacted, That this Act shall extend to every part of Great Britain and Ireland.

A

B I L L

To facilitate the Formation and Establishment of Public Institutions for the diffusing of Literary and Scientific Information, including Libraries and Museums, with commodious Halls or Places of Public Meeting for Business or Entertainment, within such Cities, Boroughs and Towns as may require them for the use and accommodation of their Inhabitants.

(Prepared and brought in by Mr. Buckingham, Mr. Wyse and Mr. Tulk.)

Ordered, by The House of Commons, *to be Printed,*
16 *July* 1835.

6 August 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To facilitate the Formation and Establishment of Public Institutions for the diffusing of Literary and Scientific Information, including Libraries and Museums, with commodious Halls or Places of Public Meeting for Business or Entertainment, within such Cities, Boroughs and Towns as may require them for the use and accommodation of their Inhabitants.

[N. B.—*The Clauses marked* (A.) *to* (D.) *were added by the Committee.*]

WHEREAS it is expedient to encourage and promote the formation and establishment of Public Institutions for the diffusion of Literary and Scientific Information, including Libraries and Museums, with commodious Halls and Places of Public Meeting for Instruction and Entertainment, within such Cities, Boroughs and Towns as may require the same for the use and accommodation of their Inhabitants; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in all cases in which Fifty Rate-payers of any City, Borough or Town, or of any Parish or Ward within the same, shall sign and send a Requisition to the Mayor or other chief civil authority of such Town, requesting him to call a Public Meeting of the Rate-payers of the same, for the purpose of considering the expediency of establishing within the Town such Public Institutions as are hereinbefore described, it shall be lawful for the said Mayor so to do; and in the event of his declining to accede to such Requisition, when duly

Preamble.

I. Fifty Rate Payers may call a Meeting upon the subject of this Act.

duly signed, and presented to him by any Three or more of the Requisitionists, by whom the same may have been signed, or in case of his neglecting to comply with their request within Three clear Days after its delivery to him, it shall then be lawful for the said Three Requisitionists themselves to call such Public Meeting of the Rate-payers in any usual place of assembling within the Town, after giving Three clear Days' notice of the same to the Mayor.

2. Meeting to decide whether Public Institutions shall be established.

And be it Enacted, That such Public Meeting being assembled, the question shall be publicly proposed by the Chairman of the same, and submitted to the open discussion of the Rate-payers then present, as to whether it is expedient that such Public Institutions for the diffusion of Literary and Scientific Information as aforesaid, should be formed and established within the Town in which such Public Meeting may be held; the costs of such undertaking to be chargeable, by way of assessment, on the rentals of the premises held and occupied by the inhabitants of the same.

3. Decision to be taken by vote.

And be it Enacted, That the decision of this question shall be submitted to the vote, at the close of such discussion, by a show of hands in the usual manner, and the declaration of the majority be publicly made on the spot by the Chairman of the Meeting; but in the event of a poll being demanded by any Three Rate-payers then present at the Meeting, such poll shall be taken on the spot by counting the numbers for, and the numbers against, the proposed Resolution.

4. The whole of the Rate-payers to be bound by the decision of the Meeting.

And be it Enacted, That in the event of a majority of Two-thirds of the Rate-payers then present at such Meeting, who may vote on the question, being found, by such poll, to be in favour of the proposed resolution, the whole of the Rate-payers of the Town shall be bound by the act of such majority, and be liable to contribute, in the proportion of their respective rentals, to such assessments as may be subsequently levied by the proper authorities, to carry the resolution into effect, within the limited amount of rating, to be hereinafter prescribed.

5. A Committee to be appointed.

And be it Enacted, That within Three clear Days after such decision of the majority as aforesaid, the Rate-payers shall proceed to elect, from among the resident householders of the Town, a Committee, to consist of Twenty-one persons, to be called "The Committee of Public Institutions:" to whom shall be confided the direction of all matters necessary for the execution and management of the Public Institutions to be formed and established under the powers of this Act; and in whom all Lands which may be purchased, with the Buildings erected upon the same for the purposes aforesaid, shall be vested, as Trustees *ex officio*, to hold and administer the same for the use and benefit of the Inhabitants generally.

And

6. Mode of Election.

And be it Enacted, That in the election of Members of the Committee, the mode followed shall be the same as that which is or may be in ordinary use in such Towns respectively for the election of Municipal or Parish Officers, as the case may be: Provided always, That no persons but those who are actually Rate-payers of such Towns shall be permitted to vote at such Elections, and that the poll for the whole of the Persons nominated for members of such Committee shall not be kept open longer than Six Hours, or from Ten o'clock in the Forenoon to Four o'clock in the Afternoon of one single Day; and provided also, that the Chairman of the public Meeting at which the original Resolution was carried, whether the Mayor or otherwise, or a Deputy appointed by the same, shall be the Returning Officer, to preside over and declare the result of such Election, by stating publicly the numbers voting for each of the several Persons nominated, and pronouncing the due return, as members of the Committee, of the Twenty-one who may have received the greatest number of votes in their favour.

7. Persons contributing a certain amount, to be Governors for life.

And be it Enacted, That in order to encourage the wealthy Inhabitants of Towns, and of the neighbourhood, to come forward voluntarily to assist in the support of such Public Institutions for the diffusion of Literary and Scientific Information, the rank of Governor for Life shall be conferred (without election) on every person contributing the sum of One hundred Pounds as a donation, and the rank of Annual Governor shall be conferred (without election) on every person contributing Ten Pounds per annum as subscription, so long as such annual subscription shall be continued; and such Life Governors and Annual Governors shall enjoy and exercise all the privileges of elected Members of the Committee.

8. One-third of the Committee shall go out annually.

And be it Enacted, That One-third of the Members of the Committee shall retire annually (in the first and second year, the Seven who were elected by the fewest number of votes, and in every succeeding year the Seven who have been longest members), and the filling up of the vacancies occasioned by such retirements, or by deaths, shall be by open election, in the same manner as that by which they were originally chosen: Provided always, That the members retiring by annual rotation may be eligible to be re-elected to the same office.

9. Committee to procure Designs and Estimates.

And be it Enacted, That the "Committee of Public Institutions," being thus formed, shall have power to procure designs and plans for the buildings required to form such Literary and Scientific Institutions, with Libraries, Museums, Halls, and other requisite accommodation, as aforesaid, with estimates of their cost, and to determine on the expediency of forming and establishing only a part or the

whole of the several Works enumerated, as in their judgment may seem meet: Provided always, That the competition for such designs, plans and estimates shall be open to all persons offering to furnish the same, and that the selection or preference of any of those over others for actual adoption, shall be left entirely to the judgment of the Committee.

10. Power to borrow Money within certain limits.

And be it Enacted, That the amount of the capital required for the completion of such Public Institutions as may be determined on, having been ascertained, it shall be lawful for the said Committee to borrow the requisite sum for that purpose, and such sum shall be charged upon the assessment hereby authorized to be levied for the repayment of the same: Provided always, That such sum shall in no case exceed, in its whole amount, the proportion of Ten Shillings to every inhabitant of such town, according to the last official census of the population of the same previous to the formation of such Institution therein.

11. Mode of redeeming the Principal, and paying Interest.

And be it Enacted, That the annual payment of the Interest, and the gradual redemption of the Principal of such sum so borrowed, shall be provided for in manner following: a Public Stock or Fund shall be created, to be open for the investment of money, in the manner of other Public Funds, and transferrible by Shares of One hundred Pounds each, bearing interest at not more than Five Pounds per centum per annum, and redeemable in Twenty Years, by the paying off of Five Pounds per centum of the principal in every year, so that at the end of Twenty Years the whole of the Buildings forming the Public Institution may be free of any incumbrance or charge on the funds of the Town.

12. Power to levy an Assessment within certain limits.

And be it Enacted, That for the payment of the said interest on such capital, and the annual redemption of Five Pounds per centum of the principal, as before described, the said "Committee of Public Institutions" shall be authorized to levy a half-yearly Assessment on the rental of all the dwellings and other premises usually paying rates within the Town; such Assessment, however, not to exceed, in any case, the sum of Three-pence in the Pound on each Assessment, or Sixpence in the Pound on the rental within the entire year.

13. Collection and Recovery of Assessment.

And be it Enacted, That the collection and recovery of the Sums assessed by order of the "Committee of Public Institutions" for the purposes aforesaid, shall be effected in the same manner in which the Rates for other local purposes are collected and recovered within such Towns respectively.

14. Objects to be secured in Public Insti-

And be it Enacted, That the following shall be considered as primary objects, to be secured in all Public Institutions erected by

by the powers of this Act:—1. A spacious Hall, provided with fires, lights, tables and chairs as required, to serve as a Hall of Social Meeting for the Labouring Classes, at those periods of the year when recreation in the open air is impracticable: 2. A School Room, adapted for Infant teaching, with Class Rooms, for the studies of Youths of more advanced age: 3. Apartments for the meetings of Benefit Clubs, Sick Societies, Trade Committees or other Local Associations of mutual relief, and for the payment of wages, the sale of goods, or any other business for which such rooms are in constant requisition, but are now rarely to be procured, except at taverns and public-houses: 4. A Theatre, adapted for the delivery of Literary and Scientific Lectures, and for the exhibition of illustrative experiments, and containing the usual subdivision of seats, as in dramatic theatres, for the separate accommodation of different classes of Society: 5. A Library, Reading Rooms, Museum and Picture Gallery, adapted for the arrangement of such books, pictures, sculpture, specimens of natural history, and rare productions of nature and art, as may, by purchase or gift, be progressively accumulated in each: 6. That no Beer, Wine, Spirits or intoxicating drinks of any kind be permitted to be brought within the Public Institution, on pain of exclusion to the offending party for the period of a year at least; but that refreshments of every other description be permitted to be supplied to the Visitors by Persons appointed by the said Committee, and subject entirely to their direction.

tutions erected under this Act.

And be it Enacted, That the said Committee may from time to time frame and pass such Rules and Regulations as they may deem necessary, for the preservation of order and decorum in every department of the Public Institution, and fix such moderate rates of payment for admission to the several parts of the same, as in their judgment may be sufficient to cover the current expenses of the Institution; keeping in view, however, the expediency of limiting such rates of admission to the lowest amount compatible with such maintenance, and with the comfort of the Persons frequenting the same.

15. Committee may make other Rules and Regulations.

And be it Enacted, That in any Cities, Boroughs or Towns in which the extent of the population may be such as to require more than one such Public Institution as hereinbefore described, it shall be lawful for the said "Committee of Public Institutions" to form and establish Auxiliary Institutions in such parts of the Town, or in such Wards or Parishes of the same, as may by them be deemed most eligible for the accommodation of the inhabitants thereof: Provided always, That the whole of the Capital to be expended in the formation and establishment of such Institutions shall not

16. Clause (A.) Auxiliary Institutions may be formed in populous Towns.

exceed the proportion of amount to population already prescribed, and that the whole of the assessments for the payment of the interest and redemption of the capital thus expended, shall not exceed the amount to which it is already limited by this Act: And provided also, That the management and regulation of all such Auxiliary Institutions, formed and established within the same City, Borough or Town, shall be under the direction of the "Committee of Public Institutions" as aforesaid, subject to such rules and provisions as are hereinbefore enacted, and to such other orders and regulations as the said Committee may from time to time think fit issue for the government of the same.

17. Clause (B.) Corporate Bodies may dispose of Land suitable for such Institutions.

And be it Enacted, That in any case in which particular spots of land may be deemed especially eligible for the erection of Buildings for such Public Institutions, but the same may belong to Corporate Bodies, or be under the management of Trustees, or be held by certain tenures which may prevent their being sold or exchanged, without special powers being given for this purpose, it shall be lawful for the Owners or Trustees of such lands, whether Bodies Corporate or otherwise, to sell, dispose of or exchange the same, on such terms as may be mutually agreed on by all the contracting parties: Provided always, That no such sale or exchange of lands shall be enforced or effected otherwise than by and with the full consent of all the parties having legal rights and interests in the same, and that the conveyances of such sale or exchange shall be made with all due form of law.

18. Clause (C.) Existing Institutions may be assisted.

And be it Enacted, That in any case in which Public Institutions for the diffusion of Literary and Scientific Information already exist in any Town, or in any Parish or Ward of the same, and for the maintenance and support of which any funds have been bestowed or subscribed, and the same shall be found insufficient for the purposes required, it shall be lawful for the "Committee of Public Institutions," appointed in manner aforesaid, in any Town, Parish or Ward in which such case shall occur, to afford such aid, by way of loan, out of the funds raised by virtue of this Act, and within the limits fixed by the same, as the case may to them seem to require: Provided always, That the repayment of the Sums so advanced at the rate of Five per centum per annum of the principal, and the payment of interest on the same at the rate of not more than Five per centum per annum, be secured on the property of such Public Institutions, as well as on the assessment of the rate-payers of the Town, Parish or Ward in which the same may be situated, within the limited amount of rating already prescribed: And provided always, That in every such case the Public Institutions thus enlarged and improved by and from the funds as aforesaid, shall be placed under the direction and management of the "Committee of Public Institutions" for the

the Town in which the same may be situated, and be subject to all such rules and regulations as may by them be thought fit to be issued within the powers given to them by this Act.

19. Minutes of Proceedings to be kept.

And be it Enacted, That a Record shall be kept of all the Minutes of the said "Committee of Public Institutions," with Reports of their Proceedings at such Meetings as they may hold from time to time for purposes of business: and that such Minutes and Reports shall be signed by at least Seven of the members present at such Meetings, as forming the quorum of such Committee, without the presence of which number no Resolutions shall be valid or binding upon the rest; and that an account shall be also kept of all receipts and disbursements connected with the Public Institutions authorized to be formed and established by this Act, and with the business of the said Committee within the year.

20. Committee to appoint Treasurer and other Officers

And be it Enacted, That for the purposes aforesaid, the said Committee shall be authorized to appoint and employ a Treasurer, Auditor, Clerks, Collectors, and such other Officers and Persons as may to them seem necessary to carry on the business of the Committee, with such salaries, and under such securities as may be proportioned to the responsibility vested in them respectively, and under full liability to such Rules and Orders as the Committee may think proper to frame for the regulation of their conduct, in the execution of their duties.

21. Minutes and Accounts to be published annually.

And be it Enacted, That within the month of January in every year, a Report of the past year's progress and proceedings shall be published, under the signature of the President or Chairman of the Committee for the time being, and countersigned by the Treasurer, Auditor and Clerk, containing detailed Accounts of all Receipts and Payments, as well as all Minutes of the Proceedings of the said Committee; and that a printed copy of such Report shall be supplied, free of expense, to every Rate-payer who may have been assessed for the purposes aforesaid, on his applying for the same.

22. Clause (D.) Reports to be sent to Libraries in London.

And be it Enacted, That a Copy of such Annual Reports, well and strongly bound, in a separate volume, shall be forwarded, free of expense, to the Office of the Secretary of State for the Home Department, to the Library of the *British* Museum, and to the Libraries of the Houses of Lords and Commons, for the inspection of those who may desire to watch the progress and proceedings of such Institutions for the Diffusion of Literary and Scientific Information in different parts of the Kingdom.

23. Committee not to be liable for Expenses incurred previous to their Institution.

And be it Enacted, That the expenses of all the preliminary proceedings, previous to the formation of the "Committee of Public Institutions," in manner before described, shall be borne by the requisitionists, and provided for by public subscriptions, or by such other means (not compulsory) as they may see fit; but in the event of the original Resolution submitted to the Public Meeting being carried in the affirmative, and the Committee being duly appointed, the expenses of such Meeting, and of all subsequent proceedings, shall then be defrayed out of the funds to be levied by the general assessment for which this Act provides.

24. Meetings upon requisition, not to be made more than once in a year.

And be it Enacted, That in the event of more than one-third of the Rate-payers of any Town assembled at a Public Meeting convened as aforesaid, voting against the original Resolution, by a poll taken at such Meeting, and thereby declaring it to be inexpedient to adopt, for the time being, any further proceedings as to the formation and establishment of any Public Institution for the diffusion of Literary and Scientific Information within the same, it shall not be lawful to make any other requisition for the purpose of calling any Public Meeting to discuss the same question, within a period of less than One year from the time of such decision.

25. Explanation of certain words in Act

And be it Enacted, That in the construction of this Act, the word "Town" shall be construed to mean City, Borough, Town or any other Place usually understood by that term; and the word "Mayor" shall be construed to mean Mayor, Boroughreeve, Constable, Bailiff, Senior Magistrate or chief civil authority, by whatever title usually recognized, within the Town or Place in which his authority is exercised; that the words "Rate-payers" shall be construed to mean all Persons who have, for the period of One year at the least, paid the usual assessments levied on the Rate-payers of the Town or Parish in which they reside.

26. Commencement of Act.

And be it Enacted, That this Act shall commence and take effect from and after the First day of October, in the year of our Lord One thousand eight hundred and Thirty-five.

27. Act to extend to Great Britain and Ireland.

And be it Enacted, That this Act shall extend to every part of *Great Britain* and *Ireland*.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To facilitate the Formation and Establishment of Public Institutions for the diffusing of Literary and Scientific Information, including Libraries and Museums, with commodious Halls or Places of Public Meeting for Business or Entertainment, within such Cities, Boroughs and Towns as may require them for the use and accommodation of their Inhabitants.

(*Prepared and brought in by Mr. Buckingham, Mr. Wyse and Mr. Tulk.*)

Ordered, by The House of Commons, *to be Printed*,
6 *August* 1835.

16 *July* 1835.

A

B I L L

To facilitate the Formation and Establishment of Public Walks, Play Grounds, Baths and Places of healthy Recreation and Amusement in the open Air, in the neighbourhood of such Cities, Boroughs and Towns as may require them for the use and accommodation of their Inhabitants.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS it is expedient to encourage and promote the formation and establishment of Public Walks, Play Grounds, Baths and Places of healthy Recreation and Amusement in the open air, in the neighbourhood of such Cities, Boroughs and Towns as may require the same for the use and accommodation of their Inhabitants; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in all cases in which *Fifty* Rate-payers of any City, Borough or Town shall sign and send a Requisition to the Mayor or other chief civil authority of such Town, requesting him to call a Public Meeting of the Inhabitants of the same, for the purpose of considering the expediency of establishing within their neighbourhood Public Walks, Play Grounds, Baths, and places of healthy recreation and amusement in the open air, it shall be lawful for the said Mayor so to do; and in the event of his declining to accede to such Requisition when duly signed and presented to him by any *Three* or more of the Requisitionists by whom the same may have been signed, or in case of his neglecting to comply with their request within *Three* clear Days

I.
Upon Requisition of Rate-Payers, Meeting to be held for purposes of Act.

Days after its delivery to him, it shall then be lawful for the said *Three* Requisitionists themselves to call such Public Meeting of the Inhabitants, in any usual place of assembling within the Town, after giving *Three* clear Days' notice of the same to the Mayor.

2.
Meeting to decide whether Public Walks, &c. should be established.

And be it Enacted, That such Public Meeting being assembled, the question shall be publicly proposed by the Chairman of the same, and submitted to the open discussion of those present, as to whether it is expedient that such Public Walks, Play Grounds, Baths, and places of healthy recreation and amusement in the open air should be formed and established within the neighbourhood of the Town in which such Public Meeting may be held; the costs of such undertaking to be chargeable, by way of assessment, on the rentals of the premises held and occupied by the Inhabitants of the same.

3.
Decision to be made by Vote.

And be it Enacted, That the decision of this question shall be submitted to the vote at the close of such Meeting by a show of hands in the usual manner, and the declaration of the Majority be publicly made on the spot by the Chairman of the Meeting; but in the event of a Poll being demanded by any *Three* Rate-payers, such Poll shall be taken in the manner usually observed in similar cases within the Town.

4.
Rate-Payers to be bound by the Majority.

And be it Enacted, That in the event of a clear Majority of the Rate-payers being found by such Poll to be in favour of the proposed Resolution, the whole of the Rate-payers of the Town shall be bound by the act of such Majority, and be liable to contribute, in the proportions of their respective rentals to such Assessments as may be subsequently levied by the proper authorities to carry the Resolution into effect, within the limited amount of rating hereinafter to be prescribed.

5.
Committee to be elected.

And be it Enacted, That within *Three* clear Days after such decision of the Majority as aforesaid, the Rate-payers shall proceed to elect from among the resident Householders of the Town a Committee, to consist of *Twenty-one* Persons, to be called "The Committee of Public Recreation," to whom shall be confided the direction of all matters necessary for the execution and management of the Public Works to be formed and established under the powers of this Act.

6.
Mode of taking the Poll.

And be it Enacted, That in all Corporate Towns the mode of taking the Poll on the original Resolution, and for the election of Members of Committee shall be the same as that followed in all municipal questions submitted to the decision of the Burgesses; and in all

all other Towns, the mode of taking the Poll shall be that in ordinary use within such Towns, for the decision of controverted questions in the management of their local affairs.

7. Persons contributing a certain Sum to be Governors.

And be it Enacted, That, in order to encourage the wealthy Inhabitants of Towns and the Gentry of the neighbourhood to come forward voluntarily to assist in the support of such Public Walks and places of recreation, the rank of Governor for life shall be conferred (without election) on every Person contributing the sum of *One hundred* Pounds as a donation, and the rank of Annual Governor shall be conferred (without election) on every Person contributing *Ten* Pounds per annum as subscription, so long as such annual subscription shall be continued; and such Life Governors and Annual Governors shall enjoy and exercise all the privileges of elected Members of the Committee.

8. One-third part of the Committee to go out annually.

And be it Enacted, That the retirement of *One-third* of the Members of the Committee annually, and the filling up of the vacancies occasioned by such retirements, or by deaths, shall be regulated by the same rules as those prescribed by the Municipal Corporation Act, for the retirement and election of Members of Council.

9. Committee to determine as to Designs, Plans and Estimates.

And be it Enacted, That the Committee of Public Recreation being thus formed, shall have power to procure Designs and Plans for the Public Walks, Play Grounds and Baths required, with Estimates of their cost, and to determine as to the expediency of forming and establishing only a part or the whole of the several works enumerated, as to their judgment may seem meet: Provided always, That the competition for such Designs, Plans and Estimates shall be open to surveyors, architects and artists of all classes, and that the selection or preference of any of those over others for actual adoption shall be left entirely to the judgment of the Committee.

10. Committee to have power to borrow Money.

And be it Enacted, That the amount of capital required for the completion of such Works as may be determined on, having been ascertained, it shall be lawful for the said Committee to borrow the requisite sum for that purpose: Provided always, That such sum shall in no case exceed the proportion of *Ten* Shillings for every inhabitant of such place, according to the latest official census of the population of the same.

11. Mode of paying Interest, and redeeming the Principal.

And be it Enacted, That the annual payment of the interest, and the gradual redemption of the principal of such sum so borrowed, shall be provided for in manner following; videlicet, a Public Stock or Fund shall be created, to be open for the investment of money,

in the manner of other Public Funds, and transferrable by Shares of *One hundred* Pounds each, bearing interest at *Five* per centum per annum, and redeemable in *Twenty* Years, by the paying off of *Five* per centum of the principal in every year, so that at the end of *Twenty* Years the whole of the Public Works may be free of any incumbrance or charge on the funds of the Town.

12. Committee authorized to levy an Assessment.

And be it Enacted, That for the payment of the said interest on such capital, and the annual redemption of *Five* per centum of the principal, as before described, the said "Committee of Public Recreation" shall be authorized to levy a half-yearly Assessment on the rental of all the dwellings and other premises usually paying rates within the Town; such Assessment, however, not to exceed in any case the sum of *Three-pence* in the Pound on each Assessment, or *Sixpence* in the Pound on the Rental, within the entire year.

13. To be collected the same as other Rates.

And be it Enacted, That the collection and recovery of the Sums assessed by order of the Committee of Public Recreation for the purposes aforesaid, whether in Towns Corporate or otherwise, shall be effected in the same manner in which the Rates for other local purposes are collected and recovered within such Towns respectively.

14. Rules to be observed in the formation of Walks, &c.

And be it Enacted, That the following shall be considered as fundamental Rules, to be observed in the formation and establishment of any Public Walks, Play Grounds and Baths, authorized by this Act; videlicet, 1. That the Public Walks be planted with Trees and Shrubs, and rendered ornamental by the introduction of running Water and Fountains, wherever practicable: 2. That they be fenced off and made secure from all public annoyances, for the safe and retired use of females and children: 3. That no Athletic Games or Sports be permitted in any part of the Public Walks: 4. That a sufficient number of commodious seats be provided within the Walks and Grounds: 5. That Music be permitted to be performed within the same, under such limitations as the Committee may see fit: 6. That the Play Grounds be adapted for Gymnastic Exercises, Cricket, Archery, and other healthy sports; but that all conflicts of a personally irritating nature, such as Wrestling, Cudgelling and Boxing, be prohibited, as well as all Games in which cruelty to Animals is involved: 7. That the Baths be adapted to teach the art of Swimming, as well as to afford the means of Ablution, and be constructed in such a manner as to secure perfect seclusion from public view, and that Hot, Cold, Shower and Vapour Baths be also provided: 8. That no Beer, Wine, Spirits, or intoxicating drinks of any kind, be permitted to be brought within the Public Walks, Play Grounds or Baths, in any quantity, or on any pretence whatever, on pain of exclusion to the offending party for the period of *a year*

at

at least; but that refreshments of every other description, except intoxicating drinks alone, be permitted to be supplied to the Visitors, by Persons appointed by the said Committee, and subject entirely to their discretion.

15. Committee may make other Rules for preservation of Order; and fix Rates of Admission.

And be it Enacted, That in addition to these fundamental Rules, the said Committee may from time to time frame and pass such other Rules and Regulations as they may deem necessary for the preservation of order and decorum, and fix such moderate rates of payment for admission to the several parts of the Public Walks, Play Grounds and Baths, as in their judgment may seem necessary to cover the current expenses of the same; keeping in view, however, the expediency of limiting such rates of admission to the lowest amount compatible with the comfort of the Visitors themselves, and the preservation of the whole establishment in a state of order and tranquillity throughout.

16. Minutes of Proceedings and Accounts to be kept.

And be it Enacted, That a Record shall be kept of all the Minutes of the said Committee, with Reports of their Proceedings at such Meetings as they may hold from time to time, for the purposes of business, and that such Minutes and Reports shall be signed by at least *Seven* of the Members present at such Meetings, as forming the quorum of such Committee, and without the presence of that number, no Resolution shall be valid or binding upon the rest; and that an Account shall be also kept of all receipts and disbursements connected with the Public Works authorized to be undertaken by this Act, or with the business of the said Committee within the year.

17. Treasurer and other Officers to be appointed.

And be it Enacted, That for the purposes aforesaid, the said Committee shall be authorized to appoint and employ a Treasurer, Auditors, Clerks, Collectors, and such other Officers and Persons as may to them seem necessary to carry on the business of the Committee, with such salaries, and under such securities, as may be proportioned to the responsibility vested in them respectively, and under full liability to such Rules and Orders as the Committee may think proper to frame for the regulation of their conduct in the execution of their duties.

18. Report of Proceedings and Accounts to be published annually.

And be it Enacted, That at the end of every year, or within *Three* Months at the farthest after the annual election of the Members of the Committee, who are to go out by rotation, a Report of the past year's progress and proceedings shall be published, under the signature of the President or Chairman of the Committee for the time being, and countersigned by the Treasurer, Auditor and Clerk, containing detailed Accounts of all Receipts and Payments, as well as all Minutes of the Proceedings of the said Committee; and that a printed

copy of such Report shall be sent by the Clerk or Collector of such Committee to the residence of every Householder and Rate-payer who may have been assessed for the purposes aforesaid.

19. Committee not to be liable for Expenses incurred before their formation.

And be it Enacted, That the expenses of all the preliminary proceedings, previous to the formation of "The Committee of Public Recreation," in manner before described, shall be borne by the Requisitionists, and provided for by public voluntary subscriptions, or such other means (not compulsory) as they may see fit; but in the event of the original Resolution submitted to the Public Meeting being carried in the affirmative, and the Committee being duly appointed, the expenses of all subsequent proceedings shall then be defrayed out of the funds to be levied by the general assessment for which this Act provides.

20. Meetings upon Requisition, not to be held more than once a year.

And be it Enacted, That in the event of the majority of the Rate-payers of any Town voting against the original Resolution, and thereby declaring it to be inexpedient to adopt, for the time being, any further proceedings as to the formation of any Public Walks, Play Grounds, Baths, and places of healthy recreation and amusement in the open air, within the neighbourhood of the same, it shall not be lawful to make any other requisition for the purpose of calling any Public Meeting to discuss the same question, within a period of less than *One* Year from the time of such decision.

21. Explanation of Words used in this Act.

And be it Enacted, That in the construction of this Act, the word "Town" shall be construed to mean City, Borough, Town, or any other place usually understood by that term; and the word "Mayor" shall be construed to mean Mayor, Boroughreeve, Bailiff, Constable, Senior Magistrate, or chief civil authority, by whatever title usually recognized within the Town or Place in which his authority is exercised; and that in all Corporate Towns the words "Rate-payers" shall be construed to mean all Persons who are included in the Burgess Roll of such Towns, and, as such, are entitled to vote at the election of Members for the Municipal Council; and in all other Towns the words "Rate-payers shall be construed to mean all Persons who are included in the Registry of the Town or Parish, and as such are entitled to vote at the election of Parish Officers within the same.

22. Commencement.

And be it Enacted, That this Act shall commence and take effect from and after the *First* day of *October One thousand eight hundred and Thirty-five.*

23. Act to extend to Great Britain and Ireland.

And be it Enacted, That this Act shall extend to every part of Great Britain and Ireland.

A

B I L L

To facilitate the Formation and Establishment of Public Walks, Play Grounds, Baths and Places of healthy Recreation and Amusement in the open Air, in the neighbourhood of such Cities, Boroughs and Towns as may require them for the use and accommodation of their Inhabitants.

(*Prepared and brought in by*
Mr. Buckingham, Mr. Brotherton and Mr. Potter.)

Ordered, by The House of Commons, *to be Printed,*
16 *July* 1835.

75

6 *August* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To facilitate the Formation and Establishment of Public Walks, Play Grounds, Baths, and Places of healthy Recreation and Amusement in the open Air, in the neighbourhood of such Cities, Boroughs and Towns as may require them for the use and accommodation of their Inhabitants.

[N. B.—*The Clauses marked* (A. *to* D.) *were added by the Committee.*]

Preamble:

WHEREAS it is expedient to encourage and promote the formation and establishment of Public Walks, Play Grounds, Baths, and Places of healthy Recreation and Amusement in the open air, in the neighbourhood of such Cities, Boroughs and Towns as may require the same for the use and accommodation of their Inhabitants; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

I.
Upon Requisition of Fifty Rate-Payers, Meeting to be held for purposes of Act.

THAT in all cases in which Fifty Rate-payers of any City, Borough or Town, or of any Parish or Ward within the same, shall sign and send a Requisition to the Mayor or other chief civil authority of such Town, requesting him to call a Public Meeting of the Rate-payers of the same, for the purpose of considering the expediency of establishing within their neighbourhood Public Walks, Play Grounds, Baths, and places of healthy recreation and amusement in the open air, it shall be lawful for the said Mayor so to do; and in the event of his declining to accede to such Requisition when duly signed, and presented to him by any Three or more of the

Requisitionists by whom the same may have been signed, or in case of his neglecting to comply with their request within Three clear Days after its delivery to him, it shall then be lawful for the said Three Requisitionists themselves to call such Public Meeting of the Rate-payers, in any usual place of assembling within the Town, after giving Three clear Days' notice of the same to the Mayor.

2. Meeting to decide whether Public Walks, &c. should be established.

And be it Enacted, That such Public Meeting being assembled, the question shall be publicly proposed by the Chairman of the same, and submitted to the open discussion of the Rate-payers then present, as to whether it is expedient that such Public Walks, Play Grounds, Baths, and places of healthy recreation and amusement in the open air should be formed and established within the neighbourhood of the Town in which such Public Meeting may be held; the costs of such undertaking to be chargeable, by way of assessment, on the rentals of the premises held and occupied by the Inhabitants of the same.

3. Decision to be made by Vote.

And be it Enacted, That the decision of this question shall be submitted to the vote, at the close of such discussion, by a show of hands in the usual manner, and the declaration of the Majority be publicly made on the spot by the Chairman of the Meeting; but in the event of a Poll being demanded by any Three Rate-payers then present at the Meeting, such Poll shall be taken on the spot, by counting the numbers for and the numbers against the proposed resolution.

4. Rate-Payers to be bound by the decision of the Meeting

And be it Enacted, That in the event of a Majority, composed of two-thirds of the Rate-payers then present at the Meeting, who may vote on the question, being found by such Poll to be in favour of the proposed Resolution, the whole of the Rate-payers of the Town shall be bound by the act of such Majority, and be liable to contribute, in the proportions of their respective rentals, to such Assessments as may be subsequently levied by the proper authorities to carry the Resolution into effect, within the limited amount of rating hereinafter to be prescribed.

5. Committee to be elected.

And be it Enacted, That within Three clear Days after such decision of the Majority as aforesaid, the Rate-payers shall proceed to elect, from among the resident Householders of the Town, a Committee, to consist of Twenty-one Persons, to be called "The Committee of Public Recreation;" to whom shall be confided the direction of all matters necessary for the execution and management of the Public Works to be formed and established under the powers of this Act; and in whom all lands which may be purchased, with the improvements made upon the same, for the purposes aforesaid, shall

shall be vested, as Trustees *ex officio*, to hold and administer the same for the use and benefit of the Inhabitants generally.

6. Mode of Election.

And be it Enacted, That in the election of Members of the Committee, the mode followed shall be the same as that which is or may be in ordinary use in such Towns respectively for the election of Municipal or Parish Officers, as the case may be: Provided always, That no Persons but those who are actually Rate-payers of such Towns shall be permitted to vote at such elections, and that the polling for the whole of the Persons nominated as Members of such Committee shall not be kept open longer than Six hours, or from Ten of the clock in the forenoon to Four of the clock in the afternoon of one single day: And provided also, That the Chairman of the Public Meeting at which the original Resolution was carried, whether the Mayor or otherwise, or a Deputy appointed by the same, shall be the Returning Officer, to preside over and declare the result of such election, by stating publicly the numbers voting for each of the several Persons nominated, and pronouncing the due return, as Members of the Committee, of the Twenty-one who may have received the greatest number of votes in their favour.

7. Persons contributing a certain Sum to be Governors.

And be it Enacted, That, in order to encourage the wealthy Inhabitants of Towns and of the neighbourhood to come forward voluntarily to assist in the support of such Public Walks and places of recreation, the rank of Governor for life shall be conferred (without election) on every Person contributing the sum of One hundred Pounds as a donation, and the rank of Annual Governor shall be conferred (without election) on every Person contributing Ten Pounds per annum as subscription, so long as such annual subscription shall be continued; and such Life Governors and Annual Governors shall enjoy and exercise all the privileges of elected Members of the Committee.

8. One-third part of the Committee to go out annually.

And be it Enacted, That One-third of the Members of the Committee shall retire annually in the first and second year, the seven who were elected by the fewest number of votes; and in every succeeding year the seven who have been longest Members, and the filling up of the vacancies occasioned by such retirements, or by deaths, shall be by open election, in the same manner as that by which they were originally chosen: Provided always, That the Members retiring by annual rotation, may be eligible to be re-elected to the same office.

9. Committee to determine as to Designs, Plans and Estimates.

And be it Enacted, That the Committee of Public Recreation being thus formed, shall have power to procure Designs and Plans for the Public Walks, Play Grounds and Baths required, with Esti-

mates of their cost, and to determine as to the expediency of forming and establishing only a part or the whole of the several works enumerated, as to their judgment may seem meet: Provided always, That the competition for such Designs, Plans and Estimates shall be open to all persons offering to furnish the same, and that the selection or preference of any of those over others for actual adoption shall be left entirely to the judgment of the Committee.

10. Committee to have power to borrow Money, within certain limits.

And be it Enacted, That the amount of capital required for the purchase of such Ground, and the completion of such Works as may be determined to be laid out and erected thereon, having been ascertained, it shall be lawful for the said Committee to borrow the requisite sum for that purpose; and such sum shall be charged upon the Assessment hereby authorized to be raised for the repayment of the same: Provided always, That such sum shall in no case exceed in its whole amount, the proportion of Ten Shillings to every inhabitant of such town, according to the last official census of the population of the same previous to the formation of such Public Works therein.

11. Mode of paying Interest, and redeeming the Principal.

And be it Enacted, That the annual payment of the interest, and the gradual redemption of the principal of such sum so borrowed, shall be provided for in manner following; a Public Stock or Fund shall be created, to be open for the investment of money, in the manner of other Public Funds, and transferrable by Shares of One hundred Pounds each, bearing interest at not more than Five per centum per annum, and redeemable in Twenty Years, by the paying off of Five per centum of the principal in every year, so that at the end of Twenty Years the whole of the Public Walks, Play Grounds, Baths, and Works connected with the same, may be free of any incumbrance or charge on the funds of the Town.

12. Committee authorized to levy an Assessment, within certain limits.

And be it Enacted, That for the payment of the said interest on such capital, and the annual redemption of Five per centum of the principal, as before described, the said "Committee of Public Recreation" shall be authorized to levy a half-yearly Assessment on the rental of all the dwellings and other premises usually paying rates within the Town; such Assessment, however, not to exceed in any case the sum of Three-pence in the Pound on each Assessment, or Sixpence in the Pound on the Rental, within the entire year.

13. To be collected the same as other Rates.

And be it Enacted, That the collection and recovery of the Sums assessed by order of the "Committee of Public Recreation" for the purposes aforesaid, shall be effected in the same manner in which the Rates for other local purposes are collected and recovered within such Towns respectively.

And

14. Objects to be secured in the formation of Walks, &c.

And be it Enacted, That the following shall be considered as primary objects to be secured in the formation and establishment of all Public Walks, Play Grounds and Baths, authorized by this Act; 1. That the Public Walks be planted with Trees and Shrubs, and rendered ornamental by the introduction of running Water and Fountains, wherever practicable: 2. That they be fenced off and made secure from all annoyances to persons frequenting the same: 3. That no Athletic Games or Sports be permitted in any part of the Public Walks: 4. That a sufficient number of commodious seats be provided within the Walks and Grounds: 5. That Music be permitted to be performed within the same, under such limitations as the Committee may see fit: 6. That the Play Grounds be adapted for Gymnastic Exercises, Cricket, Archery, and other healthy sports; but that all conflicts of a personally irritating nature, such as Wrestling, Cudgelling and Boxing, be prohibited, as well as all Games in which cruelty to Animals is involved: 7. That the Baths be adapted to teach the art of Swimming, as well as to afford the means of Ablution, and be constructed in such a manner as to secure perfect seclusion from public view, and that Hot, Cold, Shower and Vapour Baths be also provided: 8. That no Beer, Wine, Spirits, or intoxicating drinks of any kind, be permitted to be brought within the Public Walks, Play Grounds or Baths, in any quantity, or on any pretence whatever, on pain of exclusion to the offending party for the period of a year at least; but that refreshments of every other description be permitted to be supplied to the Visitors, by Persons appointed by the said Committee, and subject entirely to their direction.

15. Committee may make other Rules for preservation of Order; and fix Rates of Admission.

And be it Enacted, That in addition to these fundamental Rules, the said Committee may from time to time frame and pass such other Rules and Regulations as they may deem necessary for the preservation of order and decorum, and fix such moderate rates of payment for admission to the several parts of the Play Grounds and Baths, as in their judgment may seem necessary to cover the current expenses of the same; keeping in view, however, the expediency of limiting such rates of admission to the lowest amount compatible with the comfort of the Visitors themselves, and the preservation of the whole establishment in a state of order and tranquillity throughout.

16. Clause (A.) Committee may form Auxiliary Establishments where such are required.

And be it Enacted, That in any Cities, Boroughs and Towns in which the extent of the population may be such as to require more than one establishment of Public Walks, Play Grounds, Baths, and places of recreation and amusement in the open air, it shall be lawful for the said "Committee of Public Recreation" to form Auxiliary Establishments of the same description, in such parts of

the Town, or in such Wards or Parishes of the same, as may by them be deemed most eligible for the accommodation of the Inhabitants thereof: Provided always, That the whole capital to be expended in the formation of such Auxiliary Establishments shall not exceed the proportion of amount to population already prescribed; and that the whole of the assessments for the payment of the interest and redemption of the capital thus expended, shall not exceed the amount to which it is already limited by this Act; and provided also, that the management and regulation of all such Auxiliary Establishments within the neighbourhood of the same City, Borough or Town, shall be under the direction of the "Committee of Public Recreation," as aforesaid, subject to such rules and provisions as are hereinbefore enacted, and to such other orders and regulations as the said Committee may from time to time think fit to issue for the government of the same.

17. CLAUSE (B.) Corporate Bodies, &c. may dispose of Lands suitable for the purposes of this Act.

And be it Enacted, That in any case in which particular spots of Land may be deemed especially eligible for the formation of such Public Walks, Play Grounds, Baths, and places of healthy recreation and amusement in the open air, but the same may belong to corporate bodies, or be under the management of trustees, or be held by certain tenures which may prevent their being sold without special powers being given for this purpose; it shall be lawful for the owners or trustees of such land, whether bodies corporate or otherwise, to sell, dispose of, or exchange the same, on such terms as may be mutually agreed on by all the contracting parties: Provided always, That no such sale or exchange of lands shall be enforced or effected otherwise than by and with the full consent of all the parties having legal rights and interests in the same; and that the conveyances of such sale or exchange shall be made with all due form of law.

18. CLAUSE (C.) Committee may grant Loans for the improvement of Walks, &c. already in existence.

And be it Enacted, That in any case in which Public Walks or Grounds already exist in the neighbourhood of any Town, or in any Parish or Ward of the same, and for the maintenance and support of which any funds have been bestowed, either by grant, donation, legacy or bequest, or are authorized to be raised by any general or local Act of Parliament, and the same shall be found insufficient for the purposes required, it shall be lawful for the "Committee of Public Recreation," appointed in manner aforesaid, in any Town, Parish or Ward in which such case shall occur, to afford such aid, by way of loan, out of the funds raised by virtue of this Act, and within the limits fixed by the same, as the case may to them seem to require: Provided always, That the repayment of the sums so advanced, at the rate of Five per centum per annum of the principal, and the payment of interest on the same, at the rate of not more than Five per centum per annum, be secured on the property of such Public

Walks

Walks and Grounds, as well as on the assessment of the Rate-payers of the Town, Parish or Ward in which the same may be situated, within the limited amount of rating already prescribed; and provided always, That in every such case the Public Walks and Grounds thus improved by aid from the funds as aforesaid, shall be placed under the direction and management of the "Committee of Public Recreation" for the Towns in which the same may be situated, and be subject to all such rules and regulations as may by them be thought fit to be issued, within the powers given to them by this Act.

19. Minutes of Proceedings and Accounts to be kept.

And be it Enacted, That a Record shall be kept of all the Minutes of the said "Committee of Public Recreation," with Reports of their Proceedings at such Meetings as they may hold from time to time, for the purposes of business, and that such Minutes and Reports shall be signed by at least Seven of the Members present at such Meetings, as forming the quorum of such Committee, without the presence of which number, no Resolution shall be valid or binding upon the rest; and that an Account shall be also kept of all receipts and disbursements connected with the Public Works authorized to be undertaken by this Act, and with the business of the said Committee within the year.

20. Treasurer and other Officers to be appointed.

And be it Enacted, That for the purposes aforesaid, the said Committee shall be authorized to appoint and employ a Treasurer, Auditors, Clerks, Collectors, and such other Officers and Persons as may to them seem necessary to carry on the business of the Committee, with such salaries, and under such securities, as may be proportioned to the responsibility vested in them respectively, and under full liability to such Rules and Orders as the Committee may think proper to frame for the regulation of their conduct in the execution of their duties.

21. Report of Proceedings and Accounts to be published annually.

And be it Enacted, That in the month of January in every year, a Report of the past year's progress and proceedings shall be published, under the signature of the President or Chairman of the Committee for the time being, and countersigned by the Treasurer, Auditor and Clerk, containing detailed Accounts of all Receipts and Payments, as well as all Minutes of the Proceedings of the said Committee; and that a printed copy of such Report shall be supplied free of expense to every Rate-payer who may have been assessed for the purposes aforesaid on his applying for the same.

22. Clause (D.) Copy of Annual Report to be kept for public inspection.

And be it Enacted, That a Copy of such Annual Reports, well and strongly bound, in a separate Volume, shall be forwarded, free of expense, to the Office of the Secretary of State for the Home Department, to the Library of the *British* Museum, and to the

Libraries of the Houses of Lords and Commons, for the inspection of those who may desire to watch the progress and proceedings of such establishments for Public Recreation in different parts of the Kingdom.

23. Committee not to be liable for Expenses incurred before their formation.

And be it Enacted, That the expenses of all the preliminary proceedings, previous to the formation of "The Committee of Public Recreation," in manner before described, shall be borne by the Requisitionists, and provided for by public voluntary subscriptions, or such other means (not compulsory) as they may see fit; but in the event of the original Resolution submitted to the Public Meeting being carried in the affirmative, and the Committee being duly appointed, the expenses of such Meeting and of all subsequent proceedings shall then be defrayed out of the funds to be levied by the general assessment for which this Act provides.

24. Meetings upon Requisition, not to be held more than once a year.

And be it Enacted, That in the event of more than One-third of the Rate-payers of any Town assembled at a Public Meeting convened as aforesaid, voting against the original Resolution by a Poll taken at such Meeting, and thereby declaring it to be inexpedient to adopt, for the time being, any further proceedings as to the formation of any Public Walks, Play Grounds, Baths, and places of healthy recreation and amusement in the open air, within the neighbourhood of the same, it shall not be lawful to make any other requisition for the purpose of calling any Public Meeting to discuss the same question, within a period of less than One Year from the time of such decision.

25. Explanation of Words used in this Act.

And be it Enacted, That in the construction of this Act, the word "Town" shall be construed to mean City, Borough, Town, or any other place usually understood by that term; and the word "Mayor" shall be construed to mean Mayor, Boroughreeve, Bailiff, Constable, Senior Magistrate, or chief civil authority, by whatever title usually recognized within the Town or Place in which his authority is exercised; and that the words "Rate-payers" shall be construed to mean all Persons who have, for the period of One Year at the least, paid the usual Assessments levied on the Rate-payers of the Town or Parish in which they reside.

26. Commencement.

And be it Enacted, That this Act shall commence and take effect from and after the First day of October One thousand eight hundred and Thirty-five.

27. Act to extend to Great Britain and Ireland.

And be it Enacted, That this Act shall extend to every part of *Great Britain* and *Ireland*.

6 WILL. IV.—Sess. 1835.

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B I L L

[AS AMENDED BY THE COMMITTEE]

To facilitate the Formation and Establishment of Public Walks, Play Grounds, Baths and Places of healthy Recreation and Amusement in the open Air, in the neighbourhood of such Cities, Boroughs and Towns as may require them for the use and accommodation of their Inhabitants.

(Prepared and brought in by
Mr. Buckingham, Mr. Brotherton and
Mr. Potter.)

Ordered, by The House of Commons, *to be Printed*,
6 *August* 1835.

3 *July* 1835.

A

B I L L

To explain and amend an Act passed in the Second and Third Year of the Reign of King WILLIAM the Fourth, for amending the Representation of the People in Scotland, and to diminish the Expenses thereof.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS an Act was passed in the second and third year of the reign of His present Majesty, intituled, "An Act to amend the Representation of the People in Scotland:" Preamble: 2 & 3 Will. 4. c. 65.

And whereas it is expedient and necessary that some of the Provisions of the said Act should be altered, explained and amended, and that further provision should be made for rendering the same more effectual, and for diminishing the Expense of Elections in Scotland;

Be it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT not more than Two Joint Owners or Joint Life-renters shall be entitled to be registered in respect of any joint Property acquired by them in any Shire, but without prejudice to the rights conferred by the said recited Act upon any Joint Owners or Joint Life-renters who shall have claimed to be registered in the present year, in respect of any subjects acquired on or previous to the *last* day of *January One thousand eight hundred and Thirty-five:* Provided always, That such Joint Owner or Joint Life-renter, or Joint Owners or Joint Life-renters, of any subjects entitling him or them to be registered, not exceeding Two in number, shall alone, hereafter, be entitled to be registered, as shall when the Sheriff proceeds to consider his or their claims have obtained the consent in writing

1. Not more than Two Joint Owners or Joint Life-renters to vote in Shires in respect of their Joint Property.

writing of the other Joint Owners of such property; and such consent shall be effectual to the Person or Persons obtaining the same as long as he or they shall retain the same qualification: Provided also, That if one or more of such Joint Owners or Joint Life-renters of such subjects shall have been registered or shall have claimed to be registered in respect thereof previous to the *Twentieth* day of *July One thousand eight hundred and Thirty-five*, he or they shall be entitled to remain upon the register, or in the case of a claimant be entitled to be registered if found qualified, without such consent as long as he or they shall retain the same qualification.

2. Owners, Life-renters or Tenants, not entitled to be registered unless *Six* Months resident, or having an Interest to the yearly value of *Fifty* Pounds.

And be it Enacted, That no Owner, Life-renter or Tenant, or Joint Owner, Joint Life-renter or Joint Tenant shall be entitled to be registered in any Shire in respect of such subjects as are, by the said recited Act or by this Act, declared to confer the right to be registered unless he shall, when the Sheriff proceeds to consider his claim for Registration, have resided for the period of *Six* calendar Months next previous to the *last* day of *July* in that year within the Shire in which such subjects are situate, or within *Seven* statute Miles of some part thereof; or unless such subjects shall actually yield, or be capable of yielding to such Owner, Life-renter or Tenant, or to each of such Joint Owners, Joint Life-renters or Joint Tenants, the yearly value of *Fifty* Pounds, after deducting any feu duty, ground-annual, rent or other consideration which he may be bound to pay, or account for as a condition of his right, and unless he shall be in the receipt of the Profits or Issues thereof to the amount above mentioned or in the actual occupation thereof: Provided alway, That nothing herein contained shall be held to affect the rights of any such Owner or Life-renter, or Joint Owner or Joint Life-renter, to be registered and to vote in respect of any Property acquired on or before the *last* day of *January One thousand eight hundred and Thirty-four*, or of any Tenant or Joint Tenant, in respect of any Lease acquired on or before the *Fifteenth* day of *May One thousand eight hundred and Thirty-four*.

3. Not more than *Two* Joint Tenants to vote in Shires in respect of their Joint Tenancy.

And be it Enacted, That not more than *Two* Joint Tenants of any lands, houses or heritable subjects in virtue of the possession of which such Joint Tenants are entitled to be registered in terms of the said recited Act, shall hereafter be entitled to be registered and to vote in respect of such subjects in any Shire; and that each such Joint Tenant shall have held such subjects, for a period of not less than Twelve Months next previous to the *last day of July* in the year in which he claims to be registered: Provided always, That such Joint Tenant or Joint Tenants, not exceeding Two in number, shall alone hereafter be entitled to be registered, as shall, when the Sheriff proceeds to consider his or their Claims, have obtained the consent

consent in writing of the other Joint Tenants of such subjects; and such consent shall be effectual to the Person or Persons obtaining the same as long as he or they shall retain the same qualification: Provided also, That if one or more of such Joint Tenants of such subjects shall have been previously registered in respect thereof, or shall have claimed to be so registered on or before the day of and shall still retain the qualification, he or they shall be entitled to remain upon the Register, or, in the case of a claimant, to be registered if found qualified, without such consent, as long as he or they shall retain the same qualification.

4. Meaning of Joint Ownership or Joint Tenancy in Houses or Buildings in recited Act and this Act.

And be it Enacted, That in the meaning of the said recited Act and of this Act, Owners, Life-renters or Tenants of any House or other Building, shall be held to be Joint Owners, Joint Life-renters or Joint Tenants of the whole of such House or Building, although separate parts or flats of such House or Building should be conveyed or disponed, or let to one or more of such Owners, Life-renters or Tenants exclusively, unless such parts or flats form separate houses or apartments, having separate outward doors opening into a street or highway, or into a street, or common passage or stair, and having no passage or communication leading from one part or flat to another, otherwise than by the outward doors of the different parts or flats of such House or other Building.

5. Meaning of the words "actual personal occupancy," in recited Act

And be it Enacted and Declared, That no Tenant shall be held to be in "actual personal occupancy" in terms of the said recited Act, unless he shall, where the subjects possessed by him consist of Houses or other Buildings, actually occupy the same; or unless where such subjects consist of land, or other heritable subjects, he shall be entitled to the crop or produce and stocking, or the proportion thereof corresponding to his share or interest therein, and in his own person manage and superintend the cultivation of such Land or other heritable subject; and unless he be bonâ fide liable for the rent and other prestations, or the proportion thereof corresponding to his interest, stipulated by the lease or missive of lease under which such Lands, Houses or Heritable Subjects are let and held.

6. No Owner or Life-renter of Property in Burghs entitled to be registered, unless he shall have been Owner or Life-renter for a certain time.

And be it Enacted, That no Owner or Life-renter of Premises in any City, Burgh or Town which are declared in the said recited Act to confer a right to be registered in any City, Burgh or Town, or District of Cities, Burghs or Towns, shall in any future year be entitled to be registered or to vote, unless such Person shall have been Owner or Life-renter of such premises for the period of Six calendar Months next previous to the *last* day of *July* in such year: Provided always, That where Two or more Persons are interested in such Premises as Life-renter and as Fiar, the right to be registered

and to vote shall be in the Life-renter, and not in the Fiar; and that no Joint Owner or Joint Life-renter shall be entitled to be registered and to vote in Burghs, or Districts of Burghs, in respect of joint property.

7. Tenants or Assignees to a Lease for *Ninety-nine* years entitled to be registered in Burghs without occupancy.

And be it Enacted, That any sole Tenant or sole Assignee to any Lease for a period of not less than *Ninety-nine* Years, of subjects which by the said recited Act confer upon a Proprietor or Owner the right to be registered in any City, Burgh or Town, shall be entitled to be registered, although such Tenant or Assignee should not be in the occupancy thereof, provided such Tenant or Assignee shall, when the Sheriff proceeds to consider his claim, have held such subjects under lease, missive of lease, or other written title for a period of not less than Twelve Months next previous to the *last* day of *July* in the year in which he shall claim, and shall have resided within the City, Burgh or Town in which such subjects are situate, or within *Seven* statute Miles of some part thereof, for a period of not less than Six calendar Months next previous to the *last* day of *July* in that year.

8. Husbands of Life-renters entitled to vote.

And be it Enacted and Declared, That a Husband shall be entitled to be registered in respect of subjects which confer a right of voting held in Life-rent or Lease, or actually possessed or occupied by his wife in any City, Burgh or Town, or District of Cities, Burghs or Towns, in the same way as if such subjects had been held, or possessed or occupied by such Husband in his own right.

9. Court for registering Tenants in Burghs, removed since former Registration, on their new Premises.

AND in order to prevent the evils that arise from the disfranchisement of large numbers of Persons in Cities, Burghs and Towns, in the event of Elections occurring between the Whit-Sunday term of removal and the annual period of Registration fixed by the said recited Act; BE it Enacted, That in every future year, the Town Clerk of each City, Burgh or Town, shall, on or before the *Tenth* day of *May*, give public Notice by advertisement affixed to the doors of the Parish Churches within the City, Burgh or Town, and also in the Newspaper having the greatest reputed circulation in such City, Burgh or Town, to all persons whose Names stood upon the Register as Tenants and Occupants, or Joint Occupants, of any Premises within such City, Burgh or Town, and who may have removed, or may intend to remove in the month of May to other premises, to lodge Claims, subscribed by the claimant himself or his agent, on or before the *Twenty-sixth* day of *May*, with the Town Clerk, in the form of Schedule (No. I.) to this Act annexed, printed copies of which Schedule shall be supplied by the Town Clerk to all applicants, at the rate of *Sixpence* for each copy; and each such Town Clerk, upon receiving back such Claim filled up and subscribed as above directed, shall immediately mark upon it the time

of

of its being so lodged and presented, by filling up and subscribing the printed Form at the bottom, and forming the second part of the said Schedule (No. I.); and each Sheriff shall, on or before the said *Twenty-sixth* day of *May*, appoint one or more Courts to be held within *Six* days thereafter, by himself or his Substitute, of which public Notice shall be given by the Town Clerk, by advertisement affixed to the doors of each parish church within the City, Burgh or Town, on or before the said *Twenty-sixth* day of *May*; and before the day on which the Court is to be held, the Town Clerk shall affix an alphabetical List of the Claimants in each parish, on or near the door of the church of such parish: Provided always, That at or previous to such Court no objections shall be lodged or shall then be taken into consideration, but the said Sheriff or his Substitute, if he be satisfied that the Claimant possessed the qualification upon which he stood, or was entered in the Register as Tenant and Occupant, or Joint Occupant, at the preceding annual Court of Registration, and that there is primâ facie Evidence of the Claimant still occupying, and having, for Twelve months next previous to the *last* day of *May*, occupied premises, in succession, as Tenant and Occupant, or Joint Occupant, of the yearly value of *Ten* Pounds, shall admit the Claim; and the said Sheriff shall, at the same time, delete the name of the Claimant from his former place in the Register, and shall mark such deletion, and the date, on the back of the Claim; and the said Sheriff and Town Clerk shall observe the same rules in disposing of such claims, and in entering the names of the Claimants whose claims have been admitted in the Register, as are provided by the said recited Act to be observed in regard to claims to which no objections have been lodged.

Court to be held.

Claimant to be registered on primâ facie evidence.

10.

And be it Enacted, That each Sheriff shall enter the names of such Claimants as have been so admitted of new in the Register, and every such Person shall be entitled to vote at Elections in the same way as if he had been registered in terms of the said recited Act, and any Person whose claim shall have been rejected by the Sheriff, may tender his Vote in the manner provided in the said Act, and this Act: Provided always, That any registered Voter or Claimant may object to any Voter registered at the Court hereinbefore provided to be held by lodging an objection on or before *Twentieth* day of *July* in the year on which such Voter was so registered, on any grounds that might have been stated against his admission, if he had claimed under the provisions of the said recited Act; and either party may appeal against the judgment of the Sheriff on such objection, in the manner by the said Act prescribed; and nothing herein contained shall be held to affect the right of any Person to claim to be registered under the provisions of the said recited Act.

Such Persons entitled thereafter to vote at Elections; but objections may be lodged to their continuing on the Register.

11. Sheriff in certain cases, may correct Claim, and register Claimant accordingly.

And be it Enacted, That if, upon hearing any Claimant, and considering the titles or other documents produced by him, the Sheriff shall be satisfied that any such Claimant who has mistaken or misdescribed the character or nature of his right to the subjects set forth in his claim; but has, nevertheless, a good title to be registered in respect of such subjects, it shall be competent to the Sheriff, if it shall appear that the mistake was unintentional, to correct the Claim by inserting the proper description or character of the Claimant's right, and to enter his name upon the Register accordingly.

12. Not necessary to set forth in Claims any otherPremises than those in occupancy.

And be it Enacted and Declared, That it shall not be necessary for any Person claiming to be registered as Occupant in the character either of Proprietor, Tenant or Life-renter, or as Joint Occupant in any City, Burgh or Town, to set forth any other Premises in his Claim than those upon which he claims to be registered, he always proving, if he have not occupied the said Premises for the period required by the said recited Act, that he has occupied other Premises in succession of the requisite value, and for the requisite period.

13. Sheriff, in case Claimant has lost qualification, shall expunge his inrolment

And be it Enacted, That wherever, in the course of examining and deciding upon the Claim of any Person to be registered in any Shire, City, Burgh or Town, it shall be discovered by the Sheriff, or shall be shown to him by any registered Voter in such Shire, City, Burgh or Town, that the Claimant is no longer possessed of any qualification in respect of which his name stands upon the Register, the Sheriff, though no objection shall have been lodged, and whether he admit or reject the Claimant upon the new claim then made by him, shall expunge his Enrolment in respect of such qualification, from the Register of Voters for such Shire, City, Burgh or Town; and the said Sheriff shall forthwith make a note of the ground of deletion and of the names of the Witnesses proving the loss of such qualification, and shall affix his signature to the documents by which the loss of such qualification was established; and it shall be competent to the Person whose name shall have been so expunged, to appeal against such determination or judgment of the Sheriff in the manner provided in the said recited Act, and the Court of Appeal shall proceed in deciding upon such appeal, as is therein directed; and the judgment to "sustain" or "repel" the appeal shall be written on such appeal, and subscribed by the Sheriffs in the said Court of Appeal; and such judgment, if in favour of the Appellant, shall be a warrant to the Sheriff to restore his name to the Register.

14. A copy of objection sent by post to the

And be it Enacted, That it shall be held to be a sufficient notice of an objection to any Voter on the Register in the character of Tenant

nant or Occupant, if a copy of such objection shall, within the period required by the said recited Act, be sent through the Post Office, directed to such Voter at his house or usual place of residence.

place of Voter's Residence sufficient notice.

15. Objections to Voters on ground of death.

And be it Enacted, That wherever an objection is lodged with any Schoolmaster or Town Clerk to any Voter upon the Register, on the ground of death, the Schoolmaster or Town Clerk receiving the same shall affix a List of the Persons so objected to in each Parish, headed, " List of Voters objected to as dead " on the Church door, at the same time with the List of Claimants, which shall be held sufficient notice of such objection; and any registered Voter or any Claimant may, by himself or his agent, appear before the Sheriff and oppose such objection; and if, upon examination of the evidence adduced by the Objector, or by any Voter or Claimant opposing such objection, the Sheriff shall be satisfied that the objection is well founded, he shall expunge the name of the Person objected to from the Register; and it shall be competent to appeal from any determination or judgment of the Sheriff, the party appealing giving notice of such appeal to the opposite party.

16. A Claimant or Voter in any Burgh may object to a Voter in any Burgh of same District.

And be it Enacted and Declared, That any registered Voter or Claimant in any City, Burgh or Town, may object to the right of any Voter or Claimant in any other City, Burgh or Town within the same district.

17. Claims, Objections and Titles, may be inspected.

And be it Enacted, That all claims, objections and titles in the hands of the Schoolmaster, Sheriff Clerk or Town Clerk, shall be open to the inspection of any Person, without fee or reward, from and after the last day of the respective periods within which such claims and objections must be lodged, during the time they shall remain in the custody of such Schoolmaster, Sheriff Clerk, and Town Clerk respectively, and until the Sheriff has decided upon such claims or objections.

18. Objection or Appeal not insisted in by original Objector or Appellant, may be taken up by any Claimant or registered Voter.

And be it Enacted, That in all cases where an objection or appeal shall not be insisted in by the Objector or Appellant, it shall be competent and lawful for any Claimant or Registered Voter to insist in such objection or appeal.

19. Ground of objection to the right of registered Voter.

And be it Enacted, That the qualification of a registered Voter shall not be questioned, unless such Voter shall have been denuded of the whole or part of the subjects in respect of which he was registered, or shall hold them by a different right or title from that under which he held the same when registered, or unless in cases where residence is required, under the provisions of the said recited Act or of this Act, such Voter shall not have resided for the period of *Six* calendar Months next previous to the *last* day of *July* in the year

in which he is so objected to, within the Shire, City, Burgh or Town for which he is registered, or within *Seven* statute Miles of some part thereof.

20. Expenses when to be allowed against Objector and Appellant.

And be it Enacted, That where an objection to a registered Voter shall be over-ruled by the Sheriff, and in all cases of appeal against the judgment of any Sheriff, expenses shall be found due to the Party or Parties succeeding, unless the Sheriff or Court of Appeal shall find that there was probable cause for such objection or appeal; and such Sheriff or Court of Appeal shall at the time modify the expenses, and decern for the same: Provided always, That in the event of an appeal against the judgment of the Sheriff, the decerniture for expenses by the Sheriff may on the decision of such appeal, be altered; but if the objection shall appear to the Sheriffs in the Court of Appeal to have been taken without probable cause, they shall decern for such further sum of expenses as may appear to them to be just.

21. Sheriffs presiding at Courts of Appeal to have no voice in determination of Judgment.

And be it Enacted, That in the Courts of Appeal constituted by the said recited Act for trying Appeals from the Judgments of any Sheriff, in admitting or refusing registration, or expunging or refusing to expunge any name already on his Register, at any of the Annual Registrations or Corrections by the said Act directed to be held, the Sheriff against whose judgment any such appeal shall be brought shall, where such Court shall consist of *Four* Sheriffs, have no voice in the determination of any such appeal from any Judgment which he shall have pronounced or given.

22. Registers in Burghs to be made out according to Districts.

And be it Enacted, That in any City, Burgh or Town, divided into Two or more Polling Districts, the Sheriff and Town Clerk shall in each year, and within the period provided by the said recited Act for the correction and completion of the Alphabetical List or Register of the Voters in such City, Burgh or Town, instead of such General List or Register, have separate Lists or Registers corrected and completed, of the names of registered Voters in each of the districts into which such City, Burgh or Town shall be divided, in the form set forth in the Schedule (G.) to the said recited Act annexed: Provided always, That where any Person is registered in respect of premises situate in different districts, his name shall be entered in the List of Voters in that district within which the premises first mentioned in the claim upon which he is registered, shall be situate.

23. In case appointed Days shall happen to be a Sunday or Holiday, the proceedings shall take place on the ensuing day.

And be it Enacted, That in case any of the days in the said recited Act, or in this Act mentioned, shall happen to be a Sunday or other day on which no business is usually transacted, then and in that case the several acts and proceedings appointed to take place on such days shall take place on the day next ensuing.

And

24. Notices, &c. required to be affixed to Church-doors, may be affixed to walls of Churches.

And be it Enacted, That whenever Lists or Notices are required by the said recited Act or by this Act to be affixed to the Doors of the Parish Churches, it shall be sufficient, where more convenient, to affix them to some part of the Church adjoining.

25. Sheriff may alter Polling Districts and Polling Places.

And be it Enacted, That it shall be competent to each Sheriff to increase or alter the number, situation or arrangement of the existing Polling-places and Districts, or parts thereof, for his Shire, or for any of the Cities, Burghs or Towns therein respectively: Provided always, That *One* Month's previous shall be given by advertisement in the newspaper having the greatest circulation within the Shire, of his intention so to do; and that *Fourteen* Days previous to the day appointed for such purpose, such Sheriff shall hear and consider any proposals which may be submitted to him by any Voters in such Shire as to the fittest place or places at which such Polling-places should be fixed, and shall thereafter decide thereon as to him shall seem fit, and of the alterations proposed, and thereafter make such alterations accordingly: Provided always, That the Polling-places in Shires shall, as far as possible, be fixed by the Sheriff in the Towns or Villages in which Voters from the circumjacent country may best have access to suitable accommodation; and that the Polling Districts in Shires, Cities, Burghs or Towns shall be so arranged, that no more than *Four hundred* Voters, or thereby, shall at any election poll at any one Polling booth; and in any year where an alteration has been made by the Sheriff in the number, situation or arrangement of the Polling-places or Districts in his Shire, or in any City, Burgh or Town therein, the Sheriff Clerk or Town Clerk shall, within *Fourteen* Days after such alteration is made, make up a distinct List of the Districts and Polling-places, and cause copies thereof to be affixed to the doors of all the Parish or Town Churches within the Shire or Burgh respectively.

26. Polling Booths to be adjoining or contiguous to one another.

And be it Enacted, That where the Sheriff shall order two or more Booths, Halls, Rooms or other places for Polling at any one Polling-place, such Booths or Polling-places may be under the superintendence of one Sheriff or Sheriff-substitute, and such Sheriff and each Poll Clerk shall have with him at the Polling-place a certified copy of that part of the Register for the Shire or Burgh, which includes the Names of the registered Voters, alphabetically arranged, in the District for which such Polling-place has been appointed; and the Votes shall be taken according to such certified copy of the Register.

27. Provision as to rejected Claimants having their Votes marked as tendered.

And be it Enacted, That those rejected Claimants only shall be entitled to have their Votes marked as tendered at any Election whose Claims shall have been rejected by the Sheriff or Court of Review at either of the immediately preceding Courts of Registration

tration held under the provisions of the said recited Act or of this Act, and no evidence shall be received at the Poll of any such Claimant having so claimed and been rejected, except the exhibition of the claim marked as rejected by the Sheriff or Sheriffs in the Court of Review.

28. Alteration of the time for fixing and notifying the Day of Election, and for the Proclamation of the Writ.

AND whereas it is expedient, except in the cases hereinafter provided, to shorten the period required by the said recited Act, to elapse between the receipt and proclamation by the Sheriff of Writs for the Election of Members to serve in Parliament; BE it Enacted, That each Sheriff to whom any Writ for the Election of a Member or Members to serve for a Shire, or for any City, Burgh or Town, or District of Cities, Burghs or Towns, shall be directed, under the provisions of the said recited Act, shall endorse on the back of the Writ the day on which he received it, and shall (except only in the cases hereinafter provided), within *Two* Days thereafter announce a day or days for the Election or Elections within his Shire, which day or days shall (except only in the cases hereinafter provided), be not less than *Four* nor more than *Ten* Days in Cities, Burghs and Towns, or Districts of Cities, Burghs and Towns, nor less than nor more than Days in Shires, after the day on which the Writ was received, and shall give due intimation thereof, as is provided in the said recited Act.

29. Proviso as to Shires and Districts of Burghs specified in Schedule.

Provided always, and be it Enacted, That in the Shires and Districts of Cities, Burghs or Towns specified in Schedule (No. II.) to this Act annexed, the provisions of the said recited Act, in so far as they relate to the announcement of the day of Election, and the interval to elapse between the receipt of the Writ and the Proclamation thereof, shall remain in full force and effect; any thing contained in this Act notwithstanding.

30. Extension of time for the Election of a Member for Orkney.

AND, in respect of the remote situation of certain parts of the County of Orkney and Shetland, and the occasional difficulty of communication therewith; BE it Enacted, That the Sheriff of Orkney and Shetland, to whom the Writ for the Election of a Member for the said Shire shall be addressed at Kirkwall, shall, within *Twenty-four* Hours after receiving the same, issue a Precept to the Sheriff-substitute of Shetland, stating the day fixed by him for the Election for the said Shire, which day shall be not less than *Twelve*, nor more than *Sixteen* Days after that on which the Writ was received, and shall forward or transmit the said Precept with the least possible delay to the said Sheriff-substitute, who, immediately on receipt thereof, shall announce the day of Election by Notices on the Church-doors, and shall forthwith transmit to the said Sheriff of Orkney and Shetland a certificate of such Notices having

having been given; and if, on the day of Election, more Candidates than one shall be put in nomination, and a poll shall be demanded, the Sheriff shall adjourn the proceedings, and shall, within *Twenty-four* Hours, transmit notice thereof to the Sheriff-substitute of Shetland, who shall immediately on receipt thereof publicly announce the same, as in the case above provided, and notify the day when the polling is to take place; and the said Sheriff, on adjourning the proceedings as above directed, shall fix a day on which the polling shall take place at the different polling places within the periods herein respectively mentioned; that is to say, in Orkney within a period not exceeding *Three* free Days, exclusive of Saturdays and Sundays, from the said day of Election; and in Shetland, within a period not exceeding *Four* free Days, exclusive of Saturdays and Sundays, from the day when the said notice shall have been received by the Sheriff-substitute of Shetland; and the polling shall take place accordingly at the different polling places in both parts of the County on the day or days to which the proceedings shall have been so adjourned, and shall proceed as in other cases of polling.

31. Polls only to be kept open *one* day.

And be it Enacted, That no Poll at any Election, either for a County or a City, Burgh or Town, or District of Cities, Burghs or Towns, shall be kept open for more than *One* Day, and that only between the hours of *Eight* in the morning and *Four* in the afternoon: Provided always, That at any time after a poll has been demanded, the Poll at any one place may be closed if all the Candidates or their Agents and the Sheriff shall agree in so closing it, and after the Poll shall have been closed at all the polling places, the Sheriff may forthwith make proclamation of the Member or Members chosen, at any hour not later than *Two* of the clock in the afternoon, without waiting for the day appointed for the declaration: Provided also, That where the proceedings at any Election shall be obstructed by any riot or open violence, the Sheriff or his Substitute at the place where the riot has occurred may adjourn the poll at that place to the following day or some other convenient time, and, if necessary, may repeat such adjournment till such obstruction shall have ceased, he always giving notice to the Sheriff who is to make the return of such adjournment having been made; and the state of the poll shall not be finally declared, nor the result of the Election proclaimed, until the poll so interrupted shall be closed and transmitted to the Sheriff who is to make the Return.

32. If Voters are in attendance before *Four* o'Clock, Poll to be continued until Votes tendered.

And be it Enacted, That where before *Four* of the clock of the polling day Voters are in attendance at the polling place, to give their votes, the Sheriff, on receiving their names and finding the same on the Register, shall continue the poll so as that such votes may be given; but no votes shall be received after that hour, unless

where the Voter shall be at the Booth, and his name delivered in to the Sheriff, before *Four* of the clock.

33. At Argyle, Orkney, &c. Poll to be kept open for *Two* days.

And be it Enacted, That in the Counties of Argyle, Inverness, Ross, and Cromarty, and Orkney and Shetland, the Poll shall be kept open for *Two* Days, as heretofore.

34. Votes of Fiars from old Roll, to be entered separately where Life-renters registered on same qualification, and not counted, unless Life-renter has not voted.

And be it Enacted, That wherever the names of any Life-renter and Fiar on the same qualification shall have been transferred from the old Roll of Freeholders to the Register for any Shire, the officiating Sheriff and Poll Clerk at any polling place where the votes of any such Fiars are tendered, shall enter such votes by themselves in a separate page of the poll-book or books, and progressively number each such vote for each Candidate, and subscribe their names to each page in which such votes are entered; and the Returning Sheriff, in casting up the number of votes for each Candidate at any Election, shall not take into account the vote given by any such Fiar, unless it shall appear that the Life-renter whose name stands upon the Register on the same qualification has not voted at such Election; and if in any case the names of such Fiars or Life-renters shall have been transferred in any Register from the old roll, without showing in what character they stood on such roll, the Sheriff shall, on the motion of any qualified Elector, and on written notice being given *Three* Days before any Election, or on or before the *Twentieth* day of *July* in any year, ascertain the nature of the title of such Fiar or Life-renter; and he shall mark on the Register whether he is a Fiar or Life-renter, so as to point out the nature of his qualification in time coming.

35. Sheriff empowered to transfer name of County Voter to Polling-place nearest his residence.

And be it Enacted, That at any annual Registration it shall be competent to the Sheriff, on the application of any registered county Voter, to transfer his name to a district in which there is a Polling-place nearer his residence: Provided always, That the Sheriffs shall at the same time delete his name from the district in which he was formerly registered, and that no Fiar and Life-renter on the old roll shall be registered in different districts; and where at present so registered, the Sheriff shall transfer the name of the Fiar to the register in which the name of the Life-renter stands.

36. Sheriff-Substitutes to transmit their Poll-books to the Sheriff, who is to declare the Poll.

And be it Enacted, That where a Poll takes place for a District of Burghs situated in different Counties, the Poll-books shall, at the final close thereof, be forthwith sealed up and delivered or transmitted by the Sheriffs or Sheriff Substitutes, in charge of the Polls to the Sheriff appointed by the said recited Act to make the return of the Member for such district.

And

37.
In Ross, &c. *Three* Days allowed for transmission of Poll-books.

And be it Enacted, That in the Counties of Ross and Cromarty *Three* Days shall be allowed for the transmission of the Poll-books.

38.
Return may be delayed when Poll-books have not been received.

And be it Enacted, That in case any of the said Poll-books shall not have been received by the Returning Sheriff in time to cast up the Votes on the several Polling-books, and to declare the Election within the period prescribed by this Act, the said Sheriff shall postpone the declaration of the Election till the said several books are received, and shall, on the day after the receipt of the said books, and before *Four* of the clock afternoon, declare the result of the Election, and make Proclamation accordingly: Provided, That if the Poll-books shall be received on a Saturday, such declaration and proclamation shall be made before *Four* of the clock on the Monday following.

39.
Eldest Sons of Scotch Peers, to be possessed of the ordinary qualification.

And be it Enacted and Declared, That the eldest Sons of Scotch Peers shall only be entitled to be registered as is by the said recited Act provided, in the event of their being qualified as by the said Act and this Act Claimants are required to be qualified.

40.
Penalties on Persons voting at an Election, after having previously voted, or voting under an assumed character, or voting in respect of Premises of which they are denuded.

And be it Enacted, That any Person voting, after having previously voted at the same Election, or voting in the assumed character of any registered Voter, or voting in respect of subjects of which he has been denuded, shall be liable in a penalty of *Fifty* Pounds for each offence, besides legal expenses, to be recovered by any voter in the County, City, Burgh or Town, or district of Cities, Burghs or Towns, within which such vote shall have been given, and shall first sue for the same within *Six* calendar Months next after the cause of action has arisen: Provided always, That nothing herein contained shall be held to affect the right of any Candidate at an Election, or of any one duly authorized on his behalf, to require any of the oaths or affirmations to be put which, under the provisions of the said recited Act, may be required to be put on behalf of any Candidate to any person tendering his vote at such Election.

41.
Persons employed by Candidates at Elections, and receiving Fee or Reward, to be disqualified from voting.

And be it Enacted, That if any Person shall, either during any Election of a Member or Members to serve in Parliament for any County, City, Burgh or Town, or district of Cities, Burghs or Towns, or within *Six* calendar Months previous to such Election, be employed at such Election as counsel, agent, attorney, canvasser, committee-man, or in any other capacity for the purposes of such Election, and shall at any time either before, during or after such Election, accept, take or claim from any Candidate, or from any person whatsoever, for or in consideration of or with reference to such employment, any sum or sums of money, retaining fee, office, place or employment, or any promise or security for any sum or

sums of money, retaining fee, office, place or employment, such Person shall be deemed incapable of voting at such election: Provided always, That it shall not be competent for any Sheriff to make inquiry into these facts at the time of such Person tendering his vote; but such inquiry may be entered into by any Committee of the House of Commons, to which any Petition against the Election shall be referred: Provided also, That any such Person voting at such Election shall be liable to a penalty of *Fifty* Pounds, besides all legal expenses, to be recovered by any Voter in the County, City, Burgh or Town, or district of Cities, Burghs or Towns, who shall first sue for the same, within *Six* calendar Months next after the cause of action has arisen.

Penalty.

42. Person refusing to take Oath not to vote thereafter, though willing to take such Oath.

And be it Enacted and Declared, That where either of the Oaths or Affirmations which, under the said recited Act, may be required to be put on behalf of any Candidate, shall have been put by the Sheriff to any Person tendering his vote at any Election, and such Person shall refuse to take such Oath or Affirmation, such refusal shall forthwith be marked opposite the entry of the Voter's name in the Poll-book, and the Sheriff shall not thereafter receive the vote of such Person, though he should declare his willingness to take such Oath or Affirmation.

43. Sheriff, in case of necessary absence, may appoint a Special Substitute.

And be it Enacted, That where a Sheriff is necessarily absent from any place where any duty, other than that of acting as a Judge of Appeal, is required of him by the said recited Act or by this Act, it shall be competent for him to appoint a special Substitute to act for him at such place; and in the event of no such special substitution, his ordinary Substitute at the place shall be entitled, and is hereby required to act in his room; and if the office of Sheriff shall at any time be vacant, by death or resignation, when any of the duties imposed by the said recited Act or by this Act (other than those imposed upon him as a Judge of Appeal), are required to be performed, the ordinary Substitute at the head Burgh of the Shire appointed by the former Sheriff shall be entitled, and is hereby required to act until a successor to such former Sheriff shall be appointed, and be in a capacity to act.

44. Remuneration of Sheriffs for Registration under this Act.

And be it Enacted, That each Sheriff or his Substitute shall be entitled to remuneration, over and above his reasonable travelling expenses, for the time and labour employed in investigating and disposing of the claims lodged under the provisions of this Act, at the same rate as is provided in regard to the charges of the registering Sheriffs under the said recited Act, and which shall be ascertained and paid in the same manner.

And

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45. Recited Act repealed so far as inconsistent with this Act.

And be it Enacted, That in all cases in which the provisions of the said recited Act shall be inconsistent with this Act, and in as far as shall be necessary to give effect to the true intent and meaning of this Act, but no further, the said recited Act shall be, and the same is to such extent hereby Repealed; but the said recited Act shall, in all other respects, remain in full force and effect, and be as good and effectual to carry this Act into execution as if the same were herein repeated and re-enacted.

46. Act to take effect.

And be it further Enacted, That this Act shall take effect from and after the next.

47. Act may be amended this Session.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed in the present Session of Parliament.

SCHEDULES

To which the preceding ACT refers.

SCHEDULE, No. I.—(Part First.)

Town of

I, A. B., at present enrolled as a Voter in the Town of hereby claim to be enrolled of new as a Voter in the said Town of as Tenant and Occupant [or, Joint Occupant] of the House [or, Houses, or Houses and Lands] of in the said Town: and in support of my claim, I produce here with a [Lease, missives of Lease, et cætera, as the case may be.]

(signed) A. B.

Date

SCHEDULE, No. I.—(Part Second.)

No. lodged with me, C. D., Town Clerk of in Shire, this day of [together with the Leases, missives of Lease, et cætera, as the case may be.]

(signed) C. D.

SCHEDULE, No. II.

COUNTIES.	DISTRICTS OF BURGHS.
	1.
Argyle.	Kirkwall.
Inverness.	Wick.
Ross & Cromarty.	Dornoch.
	Dingwall.
	Tain.
	Cromarty.
	2.
	Ayr.
	Irvine.
	Campbelltown.
	Inverary.
	Oban.

A

B I L L

To alter, explain and amend an Act passed in the Second and Third Year of the Reign of King William the Fourth, for amending the Representation of the People in Scotland, and to diminish the Expenses thereof.

(*Prepared and brought in by The Lord Advocate and Mr. Attorney General.*)

Ordered, by The House of Commons, *to be Printed,*
3 *July* 1835.

31 *July* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To explain and amend an Act passed in the Second and Third Year of the Reign of King WILLIAM the Fourth, for amending the Representation of the People in *Scotland*, and to diminish the Expenses thereof.

[N. B.—*The Clause marked* (A.) *was added by the Committee.*]

WHEREAS it is expedient that the time for fixing the day of Election of Members to serve in Parliament for Cities, Burghs or Towns in *Scotland*, should be shortened after the receipts of the Writs by the Sheriff, and that the poll at such Elections should be taken in one day: Preamble:

And whereas an Act was passed in the second and third year of the reign of His present Majesty, intituled, "An Act to amend the Representation of the People in *Scotland*," whereby it is provided that the day of Election shall be not less than Ten, or more than Sixteen days after the day on which the Writ is received; 2 & 3 Will. 4. c. 65.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT each Sheriff to whom any Writ for the Election of a Member or Members to serve for any City, Burgh or Town, or District of Cities, Burghs or Towns, shall be directed, under the provisions of the said recited Act, shall endorse on the back of the Writ the day on which he received it, and shall (except only in the cases hereinafter provided), within Two Days thereafter announce a day or days for the Election or Elections, which day or days shall (except only in the cases hereinafter provided),

1. Alteration of the time for fixing and notifying the Day of Election, and for the Proclamation of the Writ.

vided), be not less than Four nor more than Ten Days in Cities, Burghs and Towns, or Districts of Cities, Burghs and Towns, after the day on which the Writ was received, and shall give due intimation thereof, as is provided in the said recited Act.

2. Proviso as to Shires and Districts of Burghs specified in Schedule.

Provided always, and be it Enacted, That in the Districts comprehending *Kirkwall, Wick, Dornoch, Dingwall, Tain, Cromarty, Ayr, Irvine, Campbelltown, Inverary* and *Oban*, the provisions of the said recited Act, in so far as they relate to the announcement of the day of Election, and the interval to elapse between the receipt of the Writ and the Proclamation thereof, shall remain in full force and effect; any thing contained in this Act notwithstanding.

3. Clause (A.) Sheriff may alter Polling Districts and Polling-places.

And be it Enacted, That it shall be competent to each Sheriff to increase or alter the number, situation or arrangement of the existing Polling-places and Districts, or parts thereof, for any of the Cities, Burghs or Towns within his Shire; and where an alteration has been made by the Sheriff in the number, situation or arrangement of the Polling-places in any such City, Burgh or Town, the Town Clerk shall forthwith make up a List of the Polling-places, and cause copies thereof to be affixed to the doors of all the Parish or Town Churches within such City, Burgh or Town.

4. Polls only to be kept open One day.

And be it Enacted, That no Poll at any Election, for any City, Burgh or Town, or District of Cities, Burghs or Towns, shall be kept open for more than One Day, and that only between the hours of Eight in the morning and Four in the afternoon: Provided always, That at any time after a poll has been demanded, the Poll at any one place may be closed if all the Candidates or their Agents and the Sheriff shall agree in so closing it, and after the Poll shall have been closed at all the polling places, the Sheriff may forthwith make proclamation of the Member or Members chosen, at any hour not later than Two of the clock in the afternoon, without waiting for the day appointed for the declaration: Provided also, That where the proceedings at any Election shall be obstructed by any riot or open violence, the Sheriff or his Substitute at the place where the riot has occurred may adjourn the poll at that place to the following day or some other convenient time, and, if necessary, may repeat such adjournment till such obstruction shall have ceased, he always giving notice to the Sheriff who is to make the return of such adjournment having been made; and the state of the poll shall not be finally declared, nor the result of the Election proclaimed, until the poll so interrupted shall be closed and transmitted to the Sheriff who is to make the Return.

5. If Voters are in attendance before Four o'Clock, Poll

And be it Enacted, That where before Four of the clock of the polling day Voters are in attendance at the polling place, to give their

their votes, the Sheriff, on receiving their names and finding the same on the Register, shall continue the poll so as that such votes may be given; but no votes shall be received after that hour, unless where the Voter shall be at the Booth, and his name delivered in to the Sheriff, before Four of the clock.

to be continued until Votes tendered.

6.

And be it Enacted, That where a Poll takes place for a District of Burghs situated in different Counties, the Poll-books shall, at the final close thereof, be forthwith sealed up and delivered or transmitted by the Sheriffs or Sheriff Substitutes, in charge of the Polls, to the Sheriff appointed by the said recited Act to make the return of the Member for such district.

Sheriff-Substitutes to transmit their Poll-books to the Sheriff, who is to declare the Poll.

7.

And be it Enacted, That in the Counties of *Ross* and *Cromarty* Three Days shall be allowed for the transmission of the Poll-books.

In Ross, &c. Three Days allowed for transmission of Poll-books.

8.

And be it Enacted, That in case any of the said Poll-books shall not have been received by the Returning Sheriff in time to cast up the Votes on the several Poll-books, and to declare the Election within the period prescribed by this Act, the said Sheriff shall postpone the declaration of the Election till the said several books are received.

Return may be delayed when Poll-books have not been received.

9.

And be it Enacted, That the Sheriff shall, on the day after the receipt of the Poll-books, and before Four of the clock in the afternoon, declare the result of the Election, and make Proclamation accordingly: Provided, That if the Poll-books shall be received on a Saturday, such declaration and proclamation shall be made before Four of the clock on the Monday following.

Sheriff to make Proclamation on the day after the receipt of Poll-books.

10.

And be it Enacted, That where a Sheriff is necessarily absent from any place where any duty, other than that of acting as a Judge of Appeal, is required of him by the said recited Act or by this Act, it shall be competent for him to appoint a special Substitute to act for him at such place; and in the event of no such special substitution, his ordinary Substitute at the place shall be entitled, and is hereby required to act in his room; and if the office of Sheriff shall at any time be vacant, by death or resignation, when any of the duties imposed by the said recited Act or by this Act (other than those imposed upon him as a Judge of Appeal), are required to be performed, the ordinary Substitute at the head Burgh of the Shire appointed by the former Sheriff shall be entitled, and is hereby required to act until a successor to such former Sheriff shall be appointed, and be in a capacity to act.

Sheriff, in case of necessary absence, may appoint a Special Substitute.

11.

And be it Enacted, That in all cases in which the provisions of the said recited Act shall be inconsistent with this Act, and in as far as

Recited Act repealed so far as inconsistent with this Act.

as shall be necessary to give effect to the true intent and meaning of this Act, but no further, the said recited Act shall be, and the same is to such extent hereby Repealed; but the said recited Act shall, in all other respects, remain in full force and effect, and be as good and effectual to carry this Act into execution as if the same were herein repeated and re-enacted.

12. Act to take effect.

And be it further Enacted, That this Act shall take effect from and after the passing thereof.

13. Act may be amended this Session.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed in the present Session of Parliament.

6 WILL. IV.—Sess. 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To alter, explain and amend an Act passed in the Second and Third Year of the Reign of King WILLIAM the Fourth, for amending the Representation of the People in *Scotland*, and to diminish the Expenses thereof.

(Prepared and brought in by The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, *to be Printed,*
31 *July* 1835.

23 *March* 1835.

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A

B I L L

To establish in Scotland an uniform and efficient System of Registration of Births, Marriages and Deaths.

[Note.—The Words printed in *Italics* are proposed to be inserted by the Committee.]

WHEREAS great inconvenience arises from the defective state of the Parochial Registers in Scotland, and it is expedient that an efficient and uniform system of Registration of Births, Marriages and Deaths should be established and maintained in that part of the United Kingdom; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in every Parish in that part of the United Kingdom of Great Britain and Ireland called Scotland (excepting the Parishes or parts of Parishes situated within the Burghs, Cities and Towns in respect of which special provision is hereinafter made) there shall, from time to time and in all time after the *First day of January One thousand eight hundred and Thirty-six* be provided and maintained at the expense of the Heritors of each such Parish respectively, in manner hereinafter provided, Three separate Register Books for recording therein all Births, Marriages and Deaths which shall happen in such Parishes respectively, and also Three separate Books capable of containing a transcript or duplicate of all the Entries which shall be annually made in such Registers, which transcript or duplicate shall be transmitted yearly to the General Register House at Edinburgh to be there preserved in manner hereinafter directed.

Preamble.

I.
Registers to be provided in each Parish at the Expense of the Heritors.

2. King's Printer to prepare Register Books at the Expense of Heritors, and Magistrates of Burghs, &c.

AND for insuring uniformity in the size and manner of keeping the said Registers and Duplicate Copies thereof; BE it Enacted, That His Majesty's Printer for Scotland shall prepare and furnish and he is hereby directed and required from time to time to prepare and furnish to the Heritors of the several Parishes, and to the Magistrates of the several Burghs, Cities and Towns in which Registers are hereby directed to be kept, or to the Registrars of such Parishes and Burghs, Cities and Towns respectively, at such reasonable price for such Books as shall be fixed by His Majesty's Advocate for Scotland for the time being, Register Books, prepared and printed on each page according to the forms of the several Schedules (A.) (B.) and (C.) respectively to this Act annexed, of good and durable paper, and substantially bound, for containing the Record of Births, Marriages and Deaths by this Act directed to be kept, and also to prepare and furnish, at a price to be fixed by His Majesty's Advocate as aforesaid, such Duplicate Sheets or Copies of such Three several Registers as shall be required from time to time for the purpose of containing the Duplicates of such Registers hereinafter required to be kept for transmission yearly to the General Register at Edinburgh in manner hereinafter directed; and every page of each such Book and Duplicate shall be numbered progressively from the beginning to the end, beginning with number one; and every place of entry shall also be numbered progressively from the beginning to the end, beginning with number one; and every entry shall be divided from the following entry by a printed line.

3. Schoolmaster in each Parish to be Registrar.

And be it Enacted, That such Register Books and Duplicates shall in such Parishes be kept by the Schoolmaster of each respective Parish, who shall be the Parish Registrar, in whose custody the said Register Books shall remain; and such Registrar shall keep the Register of Births, Marriages and Deaths in the forms of the Schedules marked (A.) (B.) and (C.) respectively hereunto annexed; and such Registrar shall enter, in a distinct and legible hand, the several particulars hereby required to be inserted in such Registers respectively as the same shall be furnished to him in manner hereinafter provided: Provided always, That in any Parish wherein there shall be no Schoolmaster, or wherein there shall be more than one Schoolmaster, or where the office shall be vacant, the person who shall have last acted as Schoolmaster in the execution of the duties imposed upon Schoolmasters, by an Act passed in the second and third years of the reign of His present Majesty, intituled, "An Act to amend the Representation of the People in Scotland," shall be held to be the parochial Schoolmaster for the purposes of this Act.

4. In certain Burghs, Cities and Towns Registrar to be appointed by the Magistrates and Council.

And be it Enacted, That in all the Burghs, Cities and Towns set forth in the Schedule marked (D.), hereunto annexed, the Registrar of such Burghs, Cities and Towns respectively shall be elected and chosen by

by the Magistrates and Town Council of such Burghs, Cities and Towns respectively; and such Magistrates and Town Councils are hereby required, on or before the *First* day of *July* next, and thereafter from time to time, within *Ten* days after any vacancy shall occur at a special meeting of Council duly convened, to nominate and appoint a proper person, who shall be the Registrar or Keeper of the several Register Books for the registration of Births, Marriages and Deaths which shall take place within the limits of such Burgh, City or Town; and the Magistrates of such Burghs, Cities or Towns respectively shall, from time to time, provide such Register Books and such Duplicates thereof as shall be necessary; and such Register Books and Duplicates shall be kept for the like purposes and in such manner as is herein directed in relation to the Register Books and Duplicates required to be provided and kept for the several Parishes as aforesaid.

5. Parishes of St. Cuthbert's and Gorbals to be Parishes under this Act.

Provided always, and be it Enacted, That the Parish of Saint Cuthbert's, in the County of Edinburgh, and the Parish of Gorbals, in the County of Lanark, shall severally be deemed and taken to be Parishes for the purposes of this Act.

6. Parents or other Persons to cause the Birth of the Child to be registered.

And be it Enacted, That from and after the *First* day of *January One thousand eight hundred and Thirty-six*, the Parent or Parents of every Child born in any such Parish or City, Burgh or Town aforesaid, or failing the Parents, the Occupier of the house wherein such Child shall have been born, shall cause the Birth of such Child to be registered in the Register of Births hereby directed to be therein kept, within *Fourteen* days after the same shall have taken place; and for that purpose such Parents, or one of them, together with some other Person who shall have been present at the birth of such Child, or any Two Persons who may have been so present, and failing the parents, and if no Person shall have been so present, then Two Persons who shall have seen the Mother and Child within *Forty-eight* Hours after the birth of the said Child, shall either personally (or by written certificate, in manner hereinafter directed) certify to the Registrar of such Parish, City, Burgh or Town, the particulars, as far as the same are known, necessary to enable him to register the birth of such Child, according to the form of the said Schedule (A.) hereunto annexed, namely, the date of the Birth of the Child, its Sex and Christian Name, the Christian Name and Surname of the Father, the Christian Name and Maiden Name of the Mother, the Designation and Place of Abode of the Father, the Place, Parish and Date of the Marriage of the Parents, if known; and the Persons communicating such information, shall sign such entry in the Register in the column appointed for that purpose, or if such Persons or any of them cannot write, shall adhibit his or her mark in presence of the Registrar, who shall also sign such entry in the column appointed for his signature, or such Parents and such other

other Persons aforesaid, or any Two of them, may and shall within such time as aforesaid, deliver or cause to be delivered to such Registrar a Certificate in writing, in the form as near as may be of the said Schedule (A.) containing the several particulars therein enumerated, as far as the same are known, together with the Designation and Place of Abode of the Persons making such certificate, which certificate shall be signed by the Person so making the same; and after the receipt thereof, the Registrar shall forthwith transcribe into the Register of Births kept by him, from such certificate, the particulars therein set forth, with the Names and Designations and Place of Abode of the Persons making the same, and shall thereupon sign such entry; and the Parents or Occupier of the house as aforesaid failing so to register the Birth of any Child within the aforesaid period of *Fourteen* days shall forfeit and pay a sum not exceeding *Twenty* Shillings to be recovered and applied as hereinafter directed.

Penalty on failure to register.

7.
Mother to register illegitimate Child.

And be it Enacted, That the Mother of any illegitimate Child born in any Parish or Burgh, City or Town, shall under the like penalty of a sum not exceeding *Twenty* Shillings in case of failure, register or cause to be registered the Birth of such illegitimate Child within *Fourteen* days thereof, and in such and the like manner as far as applicable as is hereinbefore prescribed in relation to the birth of lawful Children, the word "Illegitimate" being distinctly written after the Child's name in the Register, and the Name and Designation and Abode of the reputed Father of such illegitimate Child shall also be inserted in the Register, provided that the Father shall within the time above prescribed appear before the Registrar, and acknowledge himself to be the Father of such Child, and desire to be registered as such; and the words "reputed Father" shall be distinctly written after the Father's name in the said Register.

The Father's name to be mentioned, if he avows himself.

8.
Provision in case of the Death of the Mother.

Provided always, and be it Enacted, That in case of the death of the Mother of any illegitimate Child before the registration of the Birth thereof, the Occupier of the house wherein such Child was born, or any Person or Persons present at the birth, shall cause the birth and the particulars by this Act required, as far as known, to be registered as aforesaid; and in such case no fee or reward shall be payable upon such registration.

9.
If Parents of illegitimate Child marry after Registration of Birth, Marriage to be noted on the Register.

And be it Enacted, That if a Marriage shall take place between the Father and Mother of any illegitimate Child or Children registered in such Register as aforesaid, after the registration of the birth of such illegitimate Child or Children of which the name of the reputed Father shall have been inserted in the Register, and such Marriage shall either be registered in the Register of Marriages of the same Parish in which such birth or births is or are registered, or shall

be

be made known to the Registrar by such and the like certificates, or evidence as is hereby required in order to the registration of any Marriage under the authority of this Act, the Registrar shall thereupon make a Note upon the margin of the Register at the entry of the birth of such Child, or Entries of the birth of each of such Children, stating that a Marriage has taken place between the Parents, and that such Marriage is either registered in the Register of Marriage of the Parish of which he is Registrar, or in such other Parish in which it shall have been made to appear to such Registrar that such Parties had been married, and their Marriage been duly registered; and such Certificate or other Evidence shall be preserved by the Registrar along with the Register Books.

10. Children born at Sea may be registered.

And be it Enacted, That if any Child of whom the Parents belong or either Parent belongs to any Parish or Burgh, City or Town in Scotland, shall be born at Sea, the Parents or Parent of such Child shall, under a penalty of *Twenty* Shillings in case of failure on the arrival in any Port of the United Kingdom of the Vessel in which such Child was born, transmit by the General Post to the Registrar of the Parish or Burgh, City or Town to which the Father of such Child belongs, a Certificate signed by one of such Parents, and by the Surgeon, Captain or other officer of such Vessel, or one of the Sailors of such Vessel, present at or cognizant of the birth of such Child, or failing the Parents or Parent, by any Two of such Persons as aforesaid, who or one or other of them shall, failing the Parents, in such case transmit the same, which certificate shall set forth, as far as the same are known, the Date of Birth, the several particulars contained in the said Schedule (A.), and hereinbefore required to be inserted in the Register, and the Name of the Ship wherein the birth took place, and the Names and Designations and ordinary Places of Abode of the Witnesses; and upon the receipt of such certificate, the Registrar, if it shall appear that the Parents of such Child were of the Parish or Burgh, City or Town of which he is Registrar, shall enter the same in the Register of Births kept by him in the form (or as nearly so as may be) prescribed in the said Schedule (A.), and shall preserve such certificate, and the Letter wherein the same was transmitted, along with his Register Books, and the expense of the postage of any letter or letters transmitting any such certificate, and the fees of registration shall be defrayed by the Heritors and Kirk Session of the Parish, or by the Magistrates and Town Councils of the City, Burgh or Town respectively where such Birth at Sea shall be so registered.

11. Foundling to be registered by the Person finding the same.

And be it Enacted, That any Person finding any Child of whom the Parents shall be unknown, shall, within *Twelve* Hours after finding the same, give information thereof to the Kirk Session of the Parish, or Burgh, City or Town, in which the Child shall be found, of the time,

place and circumstances at and under which such Child was so found, which information, together with the Name, Designation and Place of Abode of the Person giving the information, shall be forthwith communicated by the Kirk Session to the Registrar of the Parish, or of the City, Burgh or Town in which such Child shall be so found, and such Registrar shall enter the same without fee or reward in the said Register.

12. Baptismal Name if different from name in Register may be added.

And be it Enacted, That if any Child, whose Birth shall have been registered as aforesaid, shall have any other name subsequently given to it in Baptism than that by which it shall have been so registered, it shall be lawful for the Parent or Guardian of such Child, and he or she is hereby required, within *Seven* Days next after such Baptism, to give notice thereof to the Person in whose keeping the Registrar's Book, containing the original entry of the Birth of such Child shall then be, and to deliver to him a Certificate thereof, according to the Form of Schedule (E.) to this Act annexed, signed by the Minister who shall have performed the rite of Baptism, which Certificate such Minister is hereby required to grant when demanded, on payment of the Fee of *Five* Shillings; and upon receipt of such Certificate, it shall be lawful for the said Register-Keeper, and he is hereby required, on payment of the Fee of *Five* Shillings, without any erasure of the original Entry, forthwith to enter the name by which such Child was baptized, and he shall thereupon certify, upon the said Certificate, the additional Entry made in the Register, and shall forthwith send the said Certificate through the Post Office to the Keeper of the General Register at Edinburgh; and every Person who shall knowingly cause or procure any Name to be given in Baptism to any registered Child by which it shall not have been registered, and who shall not, within *Seven* Days, give such notice, and cause such Baptismal Name to be inserted in the Registrar's Book as aforesaid, shall forfeit and pay a sum not exceeding *Five* Pounds for every such offence.

13. Births after 14 days to be registered before a Justice.

And be it Enacted, That in case the Birth of any Child shall not have been registered according to the provisions hereinbefore contained, it shall be lawful for any Person present at the Birth of such Child at any time within *Twelve* calendar Months next after such Birth, on production of the said Child before the Sheriff of the County, or his Substitute, or before one of the Magistrates of any Burgh, City or Town in the said Schedule (D.) and before the Registrar of the County or Burgh, City or Town, (as the case may be) in which such Birth shall have taken place, to declare upon oath (which oath the Sheriff or his Substitute, or Magistrate is hereby authorized to administer) the particulars herein required to be known touching the Birth of such Child according to the best of his or her knowledge

and

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and belief; and it shall thereupon be lawful for the said Registrar in the presence of the Sheriff or his Substitute or Magistrate to register the Birth of such Child, according to the information of the Person making such oath; any thing herein contained to the contrary notwithstanding: Provided always, That in every such case the Sheriff or his Substitute or Magistrate before whom such oath is made, shall sign the entry in the Register with the said Registrar; and for every such entry the Registrar shall be entitled to a fee of *Ten* Shillings from the Person requiring the same to be registered; and no Register of Births or Extract or Office Copy therefrom, shall be given in evidence to prove the Birth of any Child where it shall appear, that more than *Fourteen* Days have intervened between the day of the Birth, and the day of the Registration of the Birth of such Child, unless the said Register shall be signed by a Sheriff or Sheriff Substitute, or Magistrate as aforesaid; and if any Person shall knowingly register or cause or suffer to be registered the Birth of any Child, after the expiration of *Fourteen* Days following the day of the Birth of such Child, otherwise than as herein directed, he or she shall forfeit and pay for every such offence any sum not exceeding *Fifty* Pounds.

14. Births not to be registered after Twelve Months.

And be it Enacted, That after the expiration of *Twelve* calendar Months following the day of the Birth of any Child, it shall not be lawful for any Registrar to register the Birth of such Child; and no Register of Births, or Extract or Office Copy therefrom, shall be after that period admitted to prove the Birth of any Child; and if any Person shall knowingly register, or cause or suffer to be registered the Birth of any Child after the expiration of *Twelve* calendar Months following the day of the Birth of such Child, he or she shall forfeit and pay for every such offence any sum not exceeding *Fifty* Pounds.

15. Marriages to be registered.

Under a Penalty.

And be it Enacted, That from and after the said *First* day of *January One thousand eight hundred and Thirty-six*, all Marriages celebrated or contracted in Scotland shall, within *Seven* Days after such Marriage shall take place, be registered in the Marriage Register hereby appointed to be kept for the Parish, Burgh, City or Town in which such Marriage shall take place; and the Parties celebrating or contracting such Marriage shall, under a Penalty not exceeding *Twenty* Pounds in case of failure within the said period of *Seven* Days register such Marriage, according to the form in the said Schedule (B.), hereunto annexed.

16. Parties to obtain a Certificate from the Minister.

And be it Enacted, That the Parties entering into such Marriage shall, for the purpose of Registration, produce to the Registrar a certificate signed by the Minister who shall have celebrated such Marriage, which certificate such Minister is hereby required to sign, stating the Christian Names and Surnames, and Designations and

Places of Abode of the Parties entering into such Marriage, the Christian Name and Surname, Designation and Places of Abode of the Parents of the said Parties, the Date and Place where such Marriage shall have been celebrated, and the Names, Designations and Places of Abode of Two Persons who shall have been present thereat; and upon the production of such certificate to the Registrar, he shall enter in the Register of Marriages kept by him the several particulars by this Act required to be entered therein, in the form in the said Schedule (B.) hereunto annexed; and the Person producing such Certificate shall subscribe the entry of such Marriage in the column appointed in such Register for that purpose, in the presence of the Registrar, who shall also subscribe such entry.

17. Marriages of Persons fined for irregular Marriages to be registered.

And be it Enacted, That in the event of any Persons being convicted before any Magistrate for having irregularly contracted a Marriage, such Magistrate shall, in the decree or sentence to be pronounced by him against such Persons, decern for the payment of the fees of registration of such Marriage, as the fine or penalty, or a part of the fine or penalty to be imposed upon such Persons; and it shall be lawful for either of the Parties to such irregular Marriage, and they are severally hereby required within *Seven* Days after the date of the decree to register such Marriage in the Register of the Parish or City, Burgh or Town in which such decree or sentence shall be pronounced, or such irregular Marriage shall have taken place; and the production to the Registrar of an extract of the decree or sentence of the Magistrate pronouncing the same shall be sufficient evidence and warrant for the registration of such Marriage in the said Register.

18. Deaths to be registered.

And be it Enacted, That all the Deaths happening in every Parish or Burgh, City or Town in Scotland, shall from and after the said *First* day of *January One thousand eight hundred and Thirty-six*, be within *Three* Days after such Death shall happen, entered in the said Register, in the form in the said Schedule (C.) hereunto annexed prescribed; and some Relative of any Person who shall die, or some Person who shall have been in attendance upon the Person dying, or who shall have seen the dead body of the deceased, or the occupier of the house wherein such Person shall have died, shall verbally communicate or make a written statement setting forth the day, and, if known, the hour of the death of the deceased, and also the disease or other cause occasioning such death, which statement such Relative or Person aforesaid shall give or transmit to the Registrar of the Parish or Burgh, City or Town in which such death happened, and shall also give to such Registrar such further information as will enable him to enter in such Register, in terms of the said Schedule (C.) hereunto annexed, the Name, Designation and Place of Abode of the deceased, whether married or unmarried, or single or widow or widower, and if married, the place of registration of

Cause of Death to be certified by Medical Person.

of the Marriage if known, and the Age, or the reputed Age, and the day and hour of the Death of the deceased, and the Place of Birth, and the Names and Designation and Place of Abode of his or her Parents, and also, if known to the informant, the disease or other cause of the death of the deceased; and such relative or informant shall sign the entry of such Death in the column appropriated for that purpose in the said Schedule (C.) hereunto annexed.

19. Death in Gaol &c. to be registered.

And be it Enacted, That upon the death of any Person dying in any Gaol, Bridewell or place of confinement, or in any Lunatic Asylum, Hospital, Infirmary or Place of Medical Treatment, or any public charitable Institution, Workhouse or Poor-house, or any Barrack or Garrison, it shall be incumbent upon the Governor, Manager, Overseer or other Officer or Person in the management or charge of such Public Establishment, under a penalty not exceeding *Ten* Pounds in case of failure, to intimate such death within *Three* Days after it shall have taken place, with such particulars of the deceased as are by this Act required towards Registration thereof as shall be known to them respectively, to the Registrar of the Parish or Burgh, City or Town in which such death happened, and such death shall be registered as aforesaid upon production to the Registrar of a written statement, such as is hereinbefore described, or upon written or verbal information given by any officer of such place of confinement, or Lunatic, Medical or Charitable Establishment or Institution, and the informant giving such verbal information shall sign the entry of such death in the Register in the column appropriated for such purpose, and the Registrar shall sign all such entries.

20. Deaths under Sentences of the Law to be registered.

And be it Enacted, That the death of any Person executed under any sentence of the law shall, within *Three* Days thereafter, and under a penalty of *Five* Pounds in case of failure, be certified in writing or verbally to the Registrar of the Parish or Burgh, City or Town in which such execution shall take place by the Governor or Keeper or other officer of the Gaol or place of confinement in which the Person executed shall have been detained, in terms and to the effect as far as may be and shall be known to such Governor, Keeper or other officer, of the said Schedule (C.) hereunto annexed; and it shall be lawful for any relative of or other Person to whom any Person dying in any place of confinement, or in any Lunatic Asylum, Hospital, Infirmary or Place of Medical Treatment or Public or Charitable Institution, Workhouse or Poor-house, or any Barrack or Garrison, or Person executed as aforesaid was known, to communicate to such Registrar such information respecting such Person as will enable such Registrar to register such death, in the form hereby prescribed, and such informant shall sign the Register as aforesaid, adding to such signature his or her Designation and Place of Abode.

21. Death of unknown or unowned Persons to be registered.

And be it Enacted, That in the event of any dead body being found unowned or unknown, the Person finding such body shall report the facts and circumstances of the finding the same to the Procurator Fiscal of the County in which the body was found, or other proper legal authority, in order that a precognition or inquiry may be had upon the case; and the Procurator Fiscal, or such other legal authority shall, after such inquiry, communicate the fact of the finding of such body, and any circumstances emerging in such inquiry, as may in any degree enable the Registrar of the Parish or Burgh, City or Town in which such body was found to enter in the Register thereof the particulars by this Act required, as far as the same are ascertained, and such Registrar shall enter the same accordingly, and shall, along with the Procurator Fiscal or authority, or Person giving the information, sign such entry; and if the Parish to which the deceased belonged shall have been discovered, the Procurator Fiscal or other legal authority shall also communicate by letter sent through the General Post Office the fact of the finding of such body, and any other facts or circumstances emerging under such inquiry to the Registrar of the Parish to which the deceased belonged, so that his death may be also there registered, which the Registrar of such Parish is hereby required to do accordingly: Provided always, That in any case in which such double registration shall be made, the Registrars of the two Parishes respectively shall make a Note upon the Margin of the Entry, or below the same, importing that such double Entry has or may have taken place.

22. Death of Persons dying at Sea to be registered.

And be it Enacted, That in the event of the death of any previously domiciled Scotsman or native of Scotland taking place at Sea, or on board any Ship of War, the Captain or other officer of the Vessel in which the deceased shall have died, or other Person who may have seen the deceased when dead, shall, on the arrival of such Vessel at any Port in the United Kingdom, or on any other convenient opportunity, if the Parish or City, Burgh or Town in Scotland to which the deceased belonged be known, communicate by letter, to be sent through the General Post Office to the Registrar of such Parish, City, Burgh or Town, the fact of the death of such Person dying at Sea or on board any Ship of War, and such other particulars as may be known to the informant, towards enabling the Registrar to register the death of the deceased and the other particulars requisite in the Register hereby appointed to be kept; and it shall be lawful for any Relative of any Person dying at Sea or in Foreign Parts, or to any other Person or Persons having any connexion with or interest in the family and affairs of any Person so dying at Sea or in Foreign Parts, upon the receipt of authentic information regarding the death of the deceased, or having personal knowledge of such death, to cause such death to be registered in the Parish in Scotland to which the deceased belonged, and

and for that purpose to give verbal information, or to produce to the Registrar of the Parish to which the deceased belonged, a certificate containing the information necessary towards the registration of such death, in the terms of the Schedule marked (C.) hereunto annexed; and such Relative or other Person shall, if the intelligence of such death be communicated by letter, produce to the Registrar the original letters or other communication conveying the intelligence of such death to the informant or other Person to whom the same shall be addressed, whereupon such Registrar shall enter in his Register the death and other particulars necessary, as far as the same are known and communicated of the Person so dying at Sea or in Foreign Parts, and the Relative or other Person communicating the information shall sign the entry of such death to be made by the Registrar, who also shall sign the same.

23. No Burial to take place till Certificate of Registration of Death be produced.

And be it Enacted, That every Registrar, upon entering any death as herein directed, shall on being required so to do, and without fee or reward, deliver to the undertaker or person having charge of the funeral of the deceased, a Certificate in writing signed by him, setting forth that such death has been registered in terms of this Act; and it shall not be lawful for any Kirk Session in Scotland, or for any Elder, Warden, Baillie, Beadle, Sexton, Gravedigger, or other Person having the charge of any Churchyard, Church, Chapel, Aisle, Vault or place of interment, or having any control, management or superintendence of the same, or having the charge or any management of the burial of the dead of any Parish, Burgh, City or Town, to permit or suffer the interment of any dead body, unless and until there shall be produced to such Person or Persons in the charge of such Churchyard or other place of interment, or of the burial of the dead, a certificate from the Registrar of the Parish, Burgh, City or Town wherein such death shall have taken place to the effect aforesaid; and any such Person or Persons permitting the burial of any body without such certificate of the registration of the death of the deceased, shall for each offence forfeit and pay a sum not exceeding

24. Duplicate of the Register to be kept.

And be it Enacted, That every Registrar appointed by this Act, or by virtue of the powers thereof, shall within *Seven* Days after the date of every entry or registration made in the Register Books hereby appointed to be kept, transcribe in the other Book or Duplicate also hereby appointed to be provided and kept, and which shall be paged uniformly with the original Register Book, an exact copy of every such entry, so that the contents of every page of such Duplicate Book shall present an exact transcript or duplicate of such original Register Book; and such Registrar shall sign each page of such transcript or duplicate as such page shall be completed.

25. Registers to be collated and certified.

And be it Enacted, That on or before the last day in December yearly each Registrar aforesaid shall carefully collate, examine and company such duplicate or transcript with the original Register, and shall indorse on the last leaf, or some other part of such duplicate, an Affidavit, to be sworn before some competent Judge, wherein he shall depone that he has collated, examined or compared such duplicate or transcript with the original Register; and that such duplicate or transcript is a correct and accurate copy thereof.

26. Registrars to transmit annually duplicate Registers to Edinburgh.

And be it Enacted, That every such Registrar aforesaid shall, under a penalty not exceeding *Twenty* Pounds in case of failure, before the *Seventh* day of *January One thousand eight hundred and Thirty-seven*, and before the *Seventh* day of *January* in each subsequent year, prepare and complete a distinct Alphabetical Index to the three several Registers of the Births, Marriages and Deaths which have been registered by him during the preceding year; and within *Seven* Days thereafter such Registrar shall transmit to the Register House in Edinburgh, to the Keeper of the General Register of Births, Marriages and Deaths, to be there appointed, the Duplicate Register of all Births, Marriages and Deaths, as hereinbefore directed to be kept, together with a Copy of the said Alphabetical Index, which Duplicate Register and Index shall there remain as hereinafter provided; and any Registrar failing so to do, shall be liable to a penalty not exceeding *Fifty* Pounds.

27. Fees of Registration.

And be it Enacted, That the respective Registrars appointed in or under the authority of this Act shall be entitled and they are hereby respectively authorized to demand and take for each registration or entry the sums following; videlicet, for the entry or registration of every Birth, the sum of *Sixpence*; for the entry or registration of every Marriage, the sum of *Two Shillings and Sixpence*; for the entry or registration of every Death, the sum of *Sixpence*: Provided always, That the Fee chargeable upon the registration of the Birth of any Child whose Parent or Parents at the time of such birth shall be in the receipt of relief from the Poor's Funds of any Parish or City, Burgh or Town, or upon the registration of the death of any Person receiving such relief at the time of his or her death, shall be defrayed by the Kirk Session or Guardian of the Poor's Fund from which such relief was supplied, from whom the Register is hereby authorized to demand and recover the same accordingly.

28. Saving rights of Kirk Sessions to Fees on Baptisms and Marriages.

Provided always, and be it further Enacted, That nothing in this Act contained shall interfere with the rights of Kirk Sessions to levy and receive the usual Fees for the Registration of Baptisms in the Parochial Church, or the proclamation of Banns of Marriage.

And

29. Fees of Search.

And be it Enacted, That the respective Registrars appointed under the authority of this Act shall be entitled to demand and take for every Search which any Person shall make in such Register, or in the Registers heretofore kept for such Parish or Burgh, City or Town, and which shall remain with or be transferred to the Registrars appointed by or under the authority of this Act as aforesaid, and for any Extracts to be made or given by such Registrar therefrom, whether certified by such Registrar or not, the sums following; videlicet, for every Search continued during any period of not more than one hour the sum of *Two Shillings and Sixpence*; and the sum of for every additional period not exceeding one half-hour during which such Search shall be continued; and for every Extract or certified Copy of any Entry or Registration the sum of *Three Shillings*.

30. Recovery of Penalties.

And be it Enacted, That all the Penalties imposed by this Act for non-compliance with the directions thereby given in regard to the Registration of Births, Marriages and Deaths, shall be liable at the instance of the Registrar of the Parish or Burgh, City or Town in which such Penalties shall be incurred; and it shall be lawful for such Registrar, after clear days' notice to the Party by whom such Penalty shall have been incurred, to apply by summary complaint to the Judge Ordinary within whose jurisdiction such complaint shall arise; and such Judge Ordinary shall, upon proof of such notice, and on hearing the Parties, if they shall appear before him, or in their absence, if they shall not appear, and being satisfied that such Penalties are due, decern therefor with costs, and grant warrant for the poinding and distress of the goods and effects of the Party against whom such decree shall be pronounced.

31. Application of Penalties.

And be it Enacted, That such Penalties shall be applied to the benefit and use of the Registrar prosecuting for the same.

32. Evidence of Registrar not to be rejected by reason of his being Prosecutor.

Provided always, and be it Enacted, That it shall be no objection to the evidence of any Registrar in any such application or prosecution for Penalties, that he is the prosecutor therefor or interested therein.

33. General Register Office.

And be it Enacted, That there shall be a Room or Office, or Rooms or Offices established and appropriated in the General Register House at Edinburgh for the reception and preservation of the Duplicate Registers hereby directed to be transmitted to such General Register House; and the management and control of the Register of Births, Marriages and Deaths to be established at Edinburgh, and of the Clerks, Officers and others to be employed in and about the same, and of all the Superintendent Registrars and Registrars to be appointed under the authority of this Act, shall be and the same is hereby committed to and vested in the Lord Clerk Register of Scotland for the

time being; and the said Lord Clerk Register shall have full power from time to time to make such Rules and Orders not inconsistent with the provisions of this Act as shall be necessary for the regulation of the Registers, and Registrars and Superintendent Registrars hereby established and appointed, and any Registrar or Superintendent Registrar wilfully neglecting or refusing to comply with such Rules or Orders shall be liable to a Penalty not exceeding *Ten* Pounds.

34. Substitute Register who shall be Keeper of Duplicate Register to be appointed.

And be it Enacted, That it shall be lawful for the said Lord Clerk Register and he is hereby required within *Three* Months after the passing of this Act, to nominate and appoint by a writing under his hand and seal (subject to the approval of the Lords Commissioners of His Majesty's Treasury for the time being) some fit and proper Person belonging to the Register House in Edinburgh, to be the Keeper of the Duplicate Register of Births, Marriages and Deaths at Edinburgh; and such Keeper of the Duplicate Register is hereby authorized and empowered, in the absence of the said Lord Clerk Register, to do and perform every matter and thing by this Act required to be done and performed by the said Lord Clerk Register; and also hereafter if the increased business of the Office shall so require, such other Officers and Clerks as shall be from time to time necessary for the better carrying into effect the provisions of this Act; and the said Keeper of the Register at Edinburgh, and such Officer and Clerks shall, if the fees of the said Office shall not be sufficient, receive such remuneration for their trouble, but which shall cease upon the fees of the said Office becoming adequate for that purpose, as shall be settled by the said Lord Clerk Register, with the approbation of the said Lords Commissioners of His Majesty's Treasury.

35. Surveyors of Taxes to be Superintendant Registrars.

And be it Enacted, That the Surveyors of Taxes in Scotland shall be Superintendant Registrars of the several Parishes within their respective Districts, and such Superintendant Registrars shall, when required by the Lord Clerk Register, from time to time, inspect the Parochial Registers, and, if necessary, report to the Lord Clerk Register upon the condition thereof, or the conduct of the several Registrars, and shall carry into effect and enforce the Rules and Orders to be issued by the Lord Clerk Register, and do otherwise as shall be necessary towards the execution of the purposes of this Act; and in case any parochial Schoolmaster shall die, or by absence, illness or other cause, necessarily cease to act or become incapable of acting, the Superintendant Registrar of the District shall, upon the same being made known, within *Three* Days, nominate some other fit and proper Person to be interim Registrar during the absence or incapacity or until the appointment of a successor in the place of a Schoolmaster so dying or becoming incapable of acting, which nomination the Superintendant shall forthwith intimate to the

the Lord Clerk Register, to whose approbation the same shall be subject, and any Person so nominated and appointed shall be capable of performing all the duties to be performed by the Parochial Registrars appointed by and under the authority of this Act: Provided always, That the said Superintendant Registrars shall have no authority or control over the Registrars to be appointed in the Burghs, Cities or Towns in the said Schedule (D.), and the said Superintendant Registrars shall be entitled to receive reimbursement of the necessary expenses to which they may be subjected in the discharge of the duties imposed upon them by this Act.

36. Superintendant to report.

And be it Enacted, That within *Six* Months after the passing of this Act, the Chief Magistrate of every City, Burgh or Town in the Schedule (D.) hereunto annexed, and the Superintendant Registrars hereby appointed shall transmit to the Lord Clerk Register at Edinburgh, a List of the Names of all the keepers of the Registers within their respective Districts, appointed under the authority of this Act in manner herein provided.

37. Searches and Extracts, and Fees thereof.

And be it Enacted, That the Keeper of the Register of Births, Marriages and Deaths at Edinburgh, and the Registrars of the several Registers of the Parishes or Burghs, Cities or Towns aforesaid, shall at all seasonable hours permit and suffer Searches to be made in the several Registers under his or their care respectively, upon payment of a fee not exceeding for such original Registers the sums hereinbefore authorized to be taken, and for each Search of not more than hours in the General Register at Edinburgh, not exceeding the sum of and such Keeper or Registrars shall also furnish to every Person requiring the same such Extracts, certified Copy or Copies from or of the Registers under their care respectively, or any part thereof, as may be required upon payment therefor at the rate hereinbefore fixed in relation to such original Registers; and for every Extract of each several Entry or Registration, or any part thereof, from such general Register at Edinburgh at the rate of *Two Shillings and Sixpence* therefor; and all the Fees to be taken or received by the Keeper of the Register of Births, Marriages and Deaths at Edinburgh shall be applied as far as the same will go towards the defraying the expense of the said establishment at Edinburgh.

38. Penalty on refusing to permit Searches, &c.

And be it Enacted, That if any Registrar appointed by this Act, or under the authority of the same, shall wrongfully refuse to enter in the Register kept by him, any Birth, Marriage or Death sought to be registered in the terms prescribed by this Act, or if such Registrar or the Keeper of the General Register shall refuse to permit and suffer, or shall not permit or suffer, any Person willing to pay the fees of search hereby authorized to be taken, to make any search in the said

Registers respectively under their care, or shall refuse to give out any Extract or any copy or certified copy from such Registers respectively, to any Person requiring the same and willing to pay therefor the fees by this Act authorized to be taken, such Registrar or Keeper shall be liable in a penalty not exceeding *Fifty* Pounds for each offence.

39. Penalty for falsifying Registers.

And be it Enacted, That if any Registrar or any other Person whatsoever shall wilfully and knowingly insert in any such Register any false Entry of or relating to any Birth, Marriage or Death, or shall give any false information, or sign any certificate containing false information, with a view to procure a false Entry, or to such information being used in the Registration of any Birth, Marriage or Death, or shall forge, alter or interpolate, erase or obliterate any Entry in any such Register, or in any Duplicate of such Register, or if any Person shall use or utter any such Entry, knowing the same to be forged, false or altered, or shall wilfully destroy, deface or injure, or cause or permit any such Register or Duplicate, or any part thereof, to be destroyed, defaced or injured, every such offender, on being convicted thereof, shall be liable to *be transported beyond seas*, for such time as the Court before which such offender shall be tried shall determine, or at the discretion of the Court to be imprisoned for any term not exceeding *Fourteen* nor less than *Seven* Years.

40. Prosecution of Registrars, &c.

And be it Enacted, That the penalties, forfeitures or punishments by this Act imposed or inflicted upon any Registrar or Keeper to be appointed hereby or by authority hereof, or upon any Person guilty of forging, falsifying, altering, interpolating, erasing, obliterating, or otherwise wilfully injuring or destroying the Registers, or giving false information to any Registrar, in order to procure a false Entry, or using or altering any extract or copy of any false Entry, knowing the same to be false, shall and may be sued for, prosecuted and recovered, at the instance of any party wronged or aggrieved by the act or neglect on account whereof such Registrar or Keeper shall be sued or prosecuted; and all the penalties or forfeitures to be recovered by such suit or prosecution, shall be paid, the *one-half* thereof to the prosecutor, and the other to the

41. Regarding the correction of Errors in the Register.

And be it Enacted, That if any error or omission shall be made by any Registrar at the time of entering any Birth, Marriage or Death in such Register, the alteration or amendment thereof shall be declared in writing at the time on the margin of or under such Entry, and such declaration shall be signed by the Registrar, and also, unless where such Entry is made by a Certificate transmitted to the Registrar, by the Person giving the information whereon the amendment is made; and in no case shall any alteration, amendment or correction be made by erasure

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erasure or obliteration; and in case after any such Entry or Registration shall have been made in relation to any Birth, Marriage or Death, it shall appear that the same has been made in error or by mistake, and the Parties interested shall require to have such error rectified, it shall be competent for the Parties to apply to the Sheriff of the county or his Substitute by Petition for leave to correct the Register, and the Registrar, on receiving notice of such Petition, and of the day on which the Sheriff or Sheriff Substitute shall have appointed for inquiring into the truth and merits of such application, shall attend with such Register, the expense of the attendance of such Registrar being defrayed by the Person seeking to amend the Register, and the amount thereof being fixed by the said Sheriff or Sheriff Substitute; and if it shall be made to appear to the satisfaction of the Sheriff or Sheriff Substitute, by legal, written or parole evidence, that such Entry or Registration, and that the particulars or any of them therein set forth, were erroneously so set forth, it shall be competent to such Sheriff or Sheriff Substitute to direct that a Memorandum or Note shall be made upon the Register on the margin of such Entry or Registration, or under the same, setting forth the error and the rectification or correction thereof; and if such error shall be proved by parole evidence, such Note or Memorandum shall be signed by Two of the Witnesses called thereto; and shall also in all such cases, whether proved verbally or by written evidence, be signed by the Sheriff or Sheriff Substitute, and by the Registrar; and the written evidence upon which any such error shall be rectified, shall remain and be preserved in the Sheriff Clerk's Office, a Memorandum being made upon the Register, referring to the date of the depositation of such evidence in such office.

42. Extracts to be Evidence.

And be it Enacted, That the Register Books, and Duplicates thereof to be kept under the authority of this Act, and any Extract or certified copy of any Entry in such Books, such Extract or certified copy being duly made, certified and signed by the Registrar keeping the Register of any Parish or City, Burgh or Town from which the same is made, or by the Keeper of the Duplicate Registers, to be transmitted to Edinburgh as aforesaid, shall be taken and held in all courts of law as good and legal evidence of the fact set forth in such Extract or certified copy, unless the Entry or Entries contained in such Extract or certified copy shall be proved to have been falsely made.

43. Words "City, Burgh or Town" applicable to all Parishes within their limits.

And be it Enacted, That wherever in this Act the words, "City, Burgh or Town" shall occur, all things ordered or authorized to be done in such City, Burgh or Town shall be held to be applicable to all the Parishes whereof any part shall be situated within the limits of such City, Burgh or Town.

SCHEDULES to which this ACT refers.

SCHEDULE (A.) [to be paged progressively.]

	Date of Birth.	Sex.	Parents' Names.	Designation and Abode of Father.	Place and Date of Marriage of Parents.	Name of Child.	Date of Registration.	Signature and Designation of Informants.	Signature of the Registrar.
1.	*3 April 1834, between 1 & 2 o'clock, A.M.*	*a Son, (3d.)*	*John Thomson. Jane Gray.*	*Grocer, No. 20, High-street.*	*At Edinburgh, High Church Parish, 10 July 1825.*	*William.*	*6 April 1834.*	*-- John Thomson aforesaid, Father of the Child; William Gray, Baker, No. 4, Cannongate, Uncle of the Child.*	*James Wilson, Registrar.*
2.	*6 April 1834, between 3 & 4 o'clock, P.M.*	*a Daughter, (1st.)*	*Thomas Mackay. Elizabeth White.*	*Bookseller, No. 4, South Bridge.*	*At Edinburgh, Parish of St. Cuthbert's, 9 August 1832.*	*Harriet.*	*8 April 1834.*	*-- John Geddes, Surgeon and Accoucheur, No. 5, St. David-street; Mary Black, No. 10, St. James's-square.*	*James Wilson, Registrar.*

The words and figures in *Italics* in this Schedule to be filled in as the case may be.

SCHEDULE (B.) [to be paged progressively.]

	Names of the Parties.	Designation.	Parents of the Parties.	Place of Marriage of Parties.	Date of Marriage of Parties.	Witnesses present at the Marriage.	Minister by whom that Marriage was celebrated.	Signature of Registrar.
1.	*Thomas Montgomery*	*Surgeon, Dalkeith, Son of*	*-- Henry Montgomery, residing in Dalkeith; and Anne Russell, his Spouse.*	*Dalkeith.*	*10 August 1834.*	*William Greene, Writer, Dalkeith. James Hardy, Saddler, Dalkeith.*	*Rev. Henry Black, Dalkeith.*	*William Clerk, Registrar.*
	Elizabeth Johnston	*Spinster, Dalkeith, Daughter of*	*-- Thomas Johnston, Wine Merchant, Dalkeith; and Katherine Hardy, his Spouse.*					

The words and figures in *Italics* in this Schedule to be filled in as the case may be.

SCHEDULE (C.) [to be paged progressively.]

	NAME.	Designation and Place of Abode.	If Married, Widower or Single.	Place and Date and Registration of Marriage.	Time of Death.	Where born.	Parents of Deceased.	Disease of which Deceased died.	Signature and Designation of Informants.	Registrar.
1.	*William Macrae*	*Tanner, Leith*	*Married.*	*At Leith, 7 May 1810; registered 9 May 1810.*	*2d April, 1834, at 2 o'clock, P. M.*	*At Leith.*	*Alexander Macrae, Brewer, Leith, and Isabel Murray, his Spouse.*	*Apoplexy.*	*Andrew Heriot, Baker, Leith.*	*John White Registrar.*

The words and figures in *Italics* in this Schedule to be filled in as the case may be.

SCHEDULE (D.)

Containing the NAMES of the BURGHS, CITIES and TOWNS in which REGISTERS are to be appointed by the Magistrates and Town Council.

1.—Aberdeen.
2.—Dumfries.
3.—Dunfermline.
4.—Dundee.
5.—Edinburgh.
6.—Falkirk.
7.—Glasgow.
8.—Hamilton.
9.—Inverness.
10.—Kilmarnock.
11.—Leith.
12.—Montrose.
13.—Paisley.
14.—Perth.
15.—Stirling.
16.—St. Niniane's.
17.—Wick.

SCHEDULE (E.)

I, James Grant, Minister of the Parish of Libberton, in the County of Edinburgh, do hereby certify, That I have this day baptized by the name of Thomas, a male child produced to me by William Jameson, as the son of the said William Jameson and Janet Johnston, or Jameson, his wife, and declared by the said William Jameson to have been born at Upper Libberton, in the said County of Edinburgh, on the tenth day of August One thousand eight hundred and Thirty-five.

Witness my hand this Twelfth day of October One thousand eight hundred and Thirty-six.

5 WILL. IV.—Sess. 1835.

A

BILL

To establish in Scotland an uniform and efficient System of Registration of Births, Marriages and Deaths.

(*Prepared and brought in by*
Mr. Robert Steuart and Mr. Murray.)

Ordered, by The House of Commons, *to be Printed,*
23 *March* 1835.

30 *July* 1835.

(Ireland.)

A

B I L L

To give effect and validity to certain Contracts and Presentments for repairing and keeping in Repair certain Public Roads in Ireland, and to the Sureties entered into for the Execution thereof.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS at certain Special Sessions held in the County of Kildare, and in other Counties in Ireland, previous to the last Spring Assizes, in pursuance of the provisions of an Act passed in the third and fourth years of the reign of His present Majesty, intituled, "An Act to amend the Laws relating to Grand Juries in Ireland," certain Applications for Presentments for the repairs of and for keeping in repair certain Public Roads in these Counties respectively were made, and such Applications having been approved of, certain Contracts for executing such Works were entered into, and Security for the performance thereof given: AND whereas such Applications and Contracts were afterwards submitted to the Grand Juries of such Counties respectively, and allowed and approved of by them, and certain Presentments were thereupon made by such Grand Juries for raising off the said Counties respectively the Sums under such Contracts, payable to the Persons then named for executing the Public Works therein mentioned; and such Sums, or some parts thereof, have, by virtue of such Presentments, been levied by the several Collectors of Grand Jury Cess in such counties, and considerable portions of such Works have been executed by the Persons named in such Contracts:

And

And whereas doubts have been entertained whether such Contracts and Presentments have been made in strict conformity with the provisions of the said in part recited Act; and as part of the Public Works therein mentioned has been done, and part of the Money thereby presented has been raised, and cannot be now repaid; and as there is no other Fund save the Money so presented out of which the Persons who executed such Public Works can be paid, it is expedient to give validity to such Contracts and Presentments;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the several Contracts for the repairs of Public Roads in Ireland, or keeping them in repair, entered into at any Special Sessions held before the last Spring Assizes in any county in Ireland, and all Applications for Presentments for such Works made at such Sessions, and all Presentments founded thereon made by any Grand Jury at any Assizes held before the *passing of this Act*, shall be and the same are hereby declared to be valid and effectual in law; (that is to say) such Contracts shall be valid and effectual as Contracts for One Year, and such Presentments as Presentments for levying the Sums necessary for paying the Sums by such Contracts payable for such year; and that so much of the several sums by such Presentments directed to be levied as has not been already levied and raised, shall be levied and raised in the same manner and with the like powers as any sum legally presented by a Grand Jury in Ireland may be levied or raised; and that the sum and any sum heretofore levied or raised under such Presentments shall be applied as the same would be if such several Presentments had been made legally and in conformity with the provisions of such in part recited Act; and that the several Persons who would be entitled to be paid the sums so presented, if such Presentments and Contracts had been legally made, shall and may apply for payment out of the sums levied or to be levied under such Presentments, in the same manner as any Contractors would be entitled to apply for payment of any sum contracted to be paid under the Provisions of the said Act for doing any Public Works; and such application shall be allowed or rejected, and be in all respects treated as any application under the said Act for payment of any sum contracted to be paid and presented under the said Act, and the decision thereon shall be liable to be traversed as any decision or any application under such Act; and the money which shall be payable under such Contract, or such part thereof as shall, upon such application, be payable, shall be paid in the same manner as any money presented and payable under the said Act would be paid.

1. The several Contracts for the Repairs of Public Roads in Ireland, and all Presentments relating thereto, entered into before the passing of this Act, to be valid and effectual in law.

And

And be it further Enacted, That all securities given for the due performance of any such Contracts, shall be and the same are hereby declared to be valid securities, and binding on the several Persons who entered into the same, as finally and effectually, to all intents and purposes, as if they were entered into, under the Provisions of the said Act, as securities for the due performance of any Public Works.

2. Securities for Contracts to be valid.

(Ireland.)

A

BILL

To give effect and validity to certain Contracts and Presentments for repairing and keeping in Repair certain Public Roads in Ireland, and to the Sureties entered into for the Execution thereof.

(Prepared and brought in by
Mr. More O'Ferrall and Lord Viscount Morpeth.)

Ordered by The House of Commons, *to be Printed,*
30 *July* 1835.

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22 *May* 1835.

A

B I L L

To amend an Act of the Ninth Year of his late Majesty King GEORGE the Fourth, for the Preservation of the Salmon Fisheries in Scotland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS an Act was passed in the Parliament of Scotland, in the second Parliament of King JAMES the First, in the year One thousand four hundred and twenty-four, whereby it was forbidden that any Salmon be slain from the Feast of the Assumption of Our Lady until the Feast of Saint Andrew in Winter: Preamble.

And whereas sundry other Acts were made and passed at divers times by the Parliament of Scotland for the Preservation of Salmon, which were ratified and confirmed by an Act passed by the said Parliament in the year One thousand six hundred and ninety-six, intituled, "Act against Killers of Black Fish, and Destroyers of the Fry and Smolts of Salmon:"

And whereas an Act was passed in the ninth year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act for the Preservation of the Salmon Fisheries in Scotland," whereby the said first-recited Act was repealed: 9 Geo. 4. c. 39.

And whereas the said Acts have been found inadequate to the purposes for which they were passed, and it is expedient that the same should be altered, modified and amended;

Be it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT within *Two Months* after the *passing of this Act*, it shall be lawful for any *Two* Proprietors of the Salmon Fishings, in any River, and of the Streams communicating with such River, to call a Meeting of all the Proprietors of Salmon Fishings in such River and Streams, by written or printed Intimations or Notices, addressed and forwarded through the Post Office to each such Proprietor, and by Advertisement inserted in the Newspaper or several Newspapers published in the County or Counties through or immediately adjoining to which any such River flows; or if no Newspaper be published in such County, then in the nearest adjoining County, twice at least within *Ten* Days preceding the period of *Thirty* Days before such Meeting is intended to be held; which Intimations or Notices and Advertisements shall state the Place and Hour at which such Meeting is intended to be held, and the object of calling the same; and the proceedings of no Meeting to be called under the authority of this Act shall be good or valid, unless such Meeting shall have been intimated and advertised as aforesaid.

1. Authority to call Meetings of the Proprietors of Salmon Fishings.

2. Meetings may determine at what time the Fishings shall open and close.

And be it Enacted, That it shall be competent and lawful to the Proprietors of the Salmon Fishings of any River in Scotland, or Streams communicating therewith, or their duly authorized Proxies or Mandatories assembled at any Meeting called as aforesaid, provided the Proprietors present, or so represented, shall be in the right of *Two-thirds* at least of the annual value of the Fishings of the whole River and Streams, to fix and determine, by a Majority in number and value of the votes of the Proprietors, or their Proxies or Mandatories present, the day on which the Salmon Fishing of such River and Streams, and of any Estuary, Bay, Firth, or Sea-loch, and also of the Sea-coast nearest to any such River, shall open, and the day on which such Fishings shall close.

3. Open and close times may be changed gradually.

Provided always, and be it Enacted, That if it shall be deemed expedient that the period to be ultimately fixed for the opening and closing of such River and other Fishings as aforesaid, should be adopted gradually and periodically, it shall be lawful for the said Proprietors to determine that, during the first *Three* Years ensuing the passing of this Act, the times of opening and closing the said Fishings shall be abridged or prolonged for such number of days yearly, to be fixed by them, as they shall think fit, approximating always to the period ultimately fixed, so as that at the termination of the said period of *Three* Years such open and close time as shall have been decided upon as the best to be permanently adopted shall thereafter be the operative and regulating period: Provided further, That where any Sea-coast Fishing shall be within equal distance of the

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the Mouths of more than one River or Estuary, it shall be lawful for the Proprietor of such Sea-coast Fishing to elect to which River such Sea-coast Fishing shall belong, or to elect that one part of such Sea-coast Fishing shall belong to one River, and another part thereof to another; and such election shall be intimated by such Sea-coast Proprietor in writing, at the Meeting hereby authorized to be held: And provided also, That the close time to be fixed as aforesaid shall not be less than *One hundred and six* Days in each year; and that there shall be no fishing, excepting by angling, as hereinafter mentioned, for Salmon, or other fish of the Salmon kind, in any River after the *First* day of *September* in any year.

4. Determination how to be intimated and recorded.

And be it Enacted, That such determination of the Proprietors of such River Fishings shall be forthwith intimated to the Sheriff Clerk or Sheriff Clerks of the Shire, or several Shires, in or immediately adjoining to which such River flows, and shall by such Clerk or Clerks be recorded in the book or books of the Shire or Shires, of which he or they is or are such Sheriff Clerks; and the Proprietors at such Meeting shall also cause Notice of such determination, setting forth the particulars thereof, to be inserted in the Newspaper or Newspapers published in such County or Counties, *Twice* at least within *Ten* Days, and *Once* at least in the Edinburgh Gazette within *Fourteen* Days next after such Meeting; and failing such intimation to the Sheriff Clerk or Sheriff Clerks, and such notice in the Newspaper and Gazette, the determination of such Meeting as aforesaid shall be of no force or effect.

5. Penalty on Clerks failing to register.

And be it Enacted, That any Sheriff Clerk receiving such determination as aforesaid, and failing to record the same in the Sheriff Clerk books kept by him, within *Forty-eight* Hours after the same shall be received, shall forfeit and pay *Three hundred* Pounds sterling, to be levied and applied as penalties are by the said last-recited Act directed to be levied and applied.

6. Determination to be carried into effect.

And be it Enacted, That the determination of any such Meeting as aforesaid, being so recorded in the books of the Sheriff Clerk, shall be deemed and taken to be of the same force, strength and effect, as if such determination had formed a part of this Act, and the said recited Act of the ninth year of the reign of King GEORGE the Fourth, and this Act, and all the powers, penalties, directions and provisions thereof shall, in as far as the same are applicable, be of the same force, strength and effect, for carrying such determination into full operation and execution, as if such determination were ingrossed in and formed a part of this Act.

7. In cases of one Proprietor of the whole Fishings.

And be it Enacted, That in all cases in which the Salmon Fishings of a whole River, and of the Streams communicating therewith, belong to one Proprietor, such Proprietor may himself or herself come to such

determination as to the opening and closing such River and Streams as aforesaid, which he or she shall intimate to the Sheriff Clerk or Clerks of the County or Counties in or adjoining to which such River flows, who shall record the same as aforesaid; and such Proprietor shall also cause such Advertisements as aforesaid to be inserted in the Newspapers and Gazette, setting forth the time such Proprietor shall fix for the opening and closing of such River and Streams; and no determination of such Proprietor shall be of any force or effect, unless so intimated, advertised and recorded.

8. When the open and close times may be altered.

And be it Enacted, That it shall not be lawful for the Proprietors of Salmon Fishings in any River to alter the times to be so fixed for the closing and opening of such River and Streams until after the expiration of *Five* Years from and after the date of the recording of any such determination as aforesaid: Provided always, That after the expiration of such *Five* Years, and of every succeeding period of *Five* Years, a Meeting of the Proprietors may again be called in manner hereinbefore prescribed, to whom it shall be lawful to alter the determination of the preceding Meeting, and again to fix such times for the opening and closing of such River and Streams, and of any Estuary, Bay, Firth or Sea-loch, and Sea-coast aforesaid, as they shall think fit, to the like effect, and with and under the same powers, provisions, conditions and proceedings as hereby given, made, prescribed or directed in regard to the first Meeting to be held under this Act.

9. Provision as to angling with the Rod.

And be it Enacted, That after the expiration of the period at which the Salmon Fishing of the several Rivers and Streams in Scotland shall respectively close as aforesaid, *Twenty-one* clear Days shall be allowed during which it shall be lawful for the Proprietors of the Fishings of such respective Rivers, or of the Tacksmen of such Fishings, where the same shall be in lease, or such Person or Persons as shall be duly authorized by such Proprietors or Tacksmen, by permission in writing, to angle with the Rod for Salmon, Grilse, Sea Trout, or other fish of the Salmon kind; any thing in this Act, or the said recited Act of the ninth year of the reign of his Majesty King GEORGE the Fourth, to the contrary notwithstanding.

10. Penalty on not returning to the Water Salmon caught by Anglers in close time.

And be it Enacted, That if any Person angling in close time for Trout shall take any Salmon, or other fish of the Salmon kind, and shall fail forthwith to return the same to the water, such Person shall forfeit and pay a penalty not exceeding *Five* Pounds for each Fish so taken and not returned to the water, to be levied and applied as penalties are by the said last-recited Act directed to be levied and applied.

11. Meetings of Proprietors to assess themselves for Expenses.

And be it Enacted, That it shall be lawful, in Scotland, for any *Two* Proprietors of Salmon Fisheries in any River, Stream, Lake, Water or Estuary communicating therewith, from time to time to call Meetings of all the other Proprietors of Salmon Fisheries in such River, Stream,

Lake,

Lake, Water or Estuary, or on the Sea-coast as aforesaid, by *Two* several Advertisements in any Newspaper published in the County where such Meeting is to be held, or if no Newspaper be there published, then in any Newspaper published in any adjoining County, and also in one Edinburgh Newspaper at least *Fourteen* Days before such Meeting shall be held; and at such Meetings, in order that the value of such Fishings may be ascertained, all the Proprietors shall produce the Tacks or Rentals of their Fishings; and at such Meetings it shall be lawful for the Majority of Proprietors in number and value attending, or represented, if absent, by their Factors, or by any other Proprietor present, holding a written mandate to act for them, to assess the whole Proprietors of Salmon Fishings in such River, Stream, Lake, Water or Estuary, and on the Sea-coast as aforesaid, in such sum or sums as they shall think necessary and fit, rateably, according to the real Rents of their respective Fisheries for the preceding year, for the purpose of enforcing this Act, and other the Acts and Laws regulating or relating to Salmon Fisheries; and if any Proprietor shall fail to produce at such Meetings the Rental of such of his Fishings as may be let to Lessees or Tenants, or a just estimate of the value of such of his Fishings as may be in his own natural possession, or may be unlet, it shall be lawful for such Meeting to assess such Proprietor, failing as aforesaid, according to the best of their knowledge or belief of the value of the Fishings belonging to such Proprietor; and it shall be lawful for such Meetings to appoint, and out of the assessments to be so raised, to pay Clerks, Water Bailiffs and other Officers, as they shall think fit; and to offer and give Rewards for the prevention of the destruction of Salmon, or other fish of the Salmon kind, and Salmon Spawn or Spry; and all such assessments shall be recoverable in the Sheriff's Court, at the instance of any Clerk or other Person authorized by such Meeting, in the same manner and under the same provisions and regulations as small debts are now recovered, under an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act for the more easy Recovery of Small Debts in the Sheriff Courts in Scotland," and this, notwithstanding the amount of such assessment shall exceed *Eight* Pounds.

12. Act may be altered.

And be it Enacted, That this Act may be varied, amended or repealed by any Act or Acts to be passed in the present Session of Parliament.

5 WILL. IV.—Sess. 1835.

A

B I L L

To amend an Act of the Ninth Year of his late Majesty King GEORGE the Fourth, for the Preservation of the Salmon Fisheries in Scotland.

(*Prepared and brought in by*
Mr. Patrick Stewart and Mr. Loch.)

Ordered, by The House of Commons, *to be Printed,*
22 *May* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To amend an Act of the Ninth Year of his late Majesty King GEORGE the Fourth, for the Preservation of the Salmon Fisheries in *Scotland.*

[N. B.—*The Clauses marked* (A.) *to* (G.) *and Schedules* (A.) *&* (B.) *were added by the Committee.*]

WHEREAS an Act was passed in the Parliament of Scotland, in the second Parliament of King JAMES the First, in the year One thousand four hundred and twenty-four, whereby it was forbidden that any Salmon be slain from the Feast of the Assumption of Our Lady until the Feast of *Saint Andrew* in Winter: Preamble.

And whereas sundry other Acts were made and passed at divers times by the Parliament of *Scotland* for the Preservation of Salmon, which were ratified and confirmed by an Act passed by the said Parliament in the year One thousand six hundred and ninety-six, intituled, "Act against Killers of Black Fish, and Destroyers of the Fry and Smolts of Salmon:"

And whereas an Act was passed in the ninth year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act for the Preservation of the Salmon Fisheries in *Scotland,*" whereby the said first recited Act was repealed: 9 Geo. 4. c. 39.

And whereas the said Acts have been found inadequate to the purposes for which they were passed, inasmuch as it is found that one close time is not suitable for all the Salmon Fishings and Rivers throughout *Scotland,* and it is expedient that the same should be altered, modified and amended;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the Fourteenth day of September, in the year One thousand eight hundred and Thirty-six, no Salmon, Grilse, Sea Trout or other fish of the Salmon kind, shall be taken in or from any River, Stream, Lake, Water, or any Estuary, Bay, Firth or Sea Loch whatsoever in *Scotland*, or on the Sea Coast thereof, during the several and respective periods mentioned and contained in the Schedule (A.) to this Act annexed, and that the several periods therein mentioned and contained shall be held to be the close time for each of the Rivers, Streams, Lakes, Waters, Estuaries, Bays, Firths, Sea Lochs or Sea Coast comprised in the several districts described in the said Schedule.

1. No Salmon Fishings during close times specified in Schedule (A.)

2. CLAUSE (A.) For the observance of Saturday's Slap.

AND whereas by the Acts of the Parliament of *Scotland* various provisions are enacted for the regulation of Cruives, and in particular for the observance of the Saturday's Slap; BE it Enacted, That without prejudice to the existing laws in that behalf, it shall not be lawful to take any Salmon or fish of the Salmon kind in or by any Cruive or other Engine, Machine or Device of any kind or description whatever used or employed in the taking of Salmon or other fish of the Salmon kind in any River, Stream, Estuary, Bay, Firth or Sea loch, or Sea Coast aforesaid, between Six o'clock on Saturday evening and Six o'clock on Monday morning, but all such Cruives, Engines, Machines or Devices shall during that time be so opened or removed as that the Mid-stream shall be free to the full extent required by the Acts or any of them, and so as that an ample space shall be made and secured for the free passage of Salmon, according to the true intent and meaning of the said Acts and of the said recited Act of the ninth year of his late Majesty and of this Act; and any Person owning or renting or using any such Cruive, Engine, Machine or Device, and failing so to open or remove the same, and any Person taking therein any Salmon or fish of the Salmon kind during the aforesaid time, shall for every such offence forfeit and pay a sum not less than Ten Pounds, or more than Twenty Pounds.

3. CLAUSE (B.) For the regulation of Cruives.

And be it Enacted, That the box or room of every Cruive shall be so constructed and placed as that the bottom or floor thereof shall be flat upon or level with the bed or bottom of the River, and shall present no obstruction or obstacle to Salmon or fish of the Salmon kind passing up the River and into such Cruive, and the hecks of the upper side of such Cruive shall, when the Cruive is open for the Saturday's Slap, be completely removed, so as that no obstacle or obstruction shall be opposed to the free passage of Fish up the River through such Cruive; and any Person constructing or placing any such box or room

room of any Cruive contrary to the provisions of this Act, or failing to remove the hecks thereof in manner hereby directed and required, shall forfeit and pay a penalty of not less than Ten Pounds, nor more than Twenty Pounds, for such offence, and shall be obliged forthwith to construct or place such box or room, or remove such hecks, in manner hereby directed, under a penalty of Five Pounds daily, as long as such box or room shall not be so constructed or placed, and of the like sum as often as such hecks shall not be removed as aforesaid.

4.
CLAUSE (C.) Regulation of Sluices of Mill Leads.

And be it Enacted, That the Owner or Tenant of every Mill occupying the same shall be obliged to keep shut the Sluice or Sluices of the Mill Lead, Course or Race of such Mill from the time that such Mill shall cease to be wrought on Saturday night till the time that the working thereof shall be resumed on Monday morning, so that the whole water of the River or Stream shall during such time pass down the bed or channel of such River or Stream, and no part thereof into such Lead Course or Race, under a penalty, to be paid by the Person offending, of not less than Five Pounds, or more than Ten Pounds, for every such offence.

5.
CLAUSE (D.) Appointment of Inspectors.

And be it Enacted, That for the better carrying into execution and enforcing the provisions of the said Acts and of this Act it shall be competent for the Sheriff of any County specified in the Schedule (B.) to this Act annexed, upon an application to him in writing by Six Proprietors of Salmon Fishings within any of the districts aforesaid situated in his County, to appoint an Inspector or Inspectors of the Fishings of such district for the purposes after mentioned.

6.
CLAUSE (E.) Duties of Inspectors.

And be it Enacted, That all Inspectors so to be appointed, shall respectively within his or their districts from time to time and at all times upon the complaint or application of any Owner or Tenant of any Salmon Fishing, examine and inspect the several Fishings included in such district, and shall ascertain and inquire if the several laws and provisions regarding the same are properly observed and executed; and if any such Inspector shall find any of the said laws or any parts or provisions thereof not duly observed and executed, so far as regards fishing within any close time, or fishing in any manner contrary to law or the observance of Saturday's Slap, or the construction, position, regulation or removal of Cruives, Hecks, Engines, Machines or Devices, or the height or breadth of any Mill, Dam or Dike, or the shutting by Mill Owners and others of the sluices of their Mill Leads, Courses, or Races in manner herein prescribed, such Inspector shall forthwith proceed against the offender or offenders, in the manner and to the effect by the said recited Acts and this Act authorized and directed, and for that purpose it shall be competent for such Inspector to apply summarily to the Sheriff or Sheriff Substitute of the County, in or through or

adjoining to which any River, Stream, Estuary, Bay, Firth, Sea Loch or Sea Coast aforesaid shall run, who shall interpose his authority to enforce the observance of the said recited Acts and of this Act as aforesaid, and shall decern not only for the expenses attending such application or complaint, but of all the proceedings and operations which may be necessary for the complete enforcement and fulfilment of such provisions and directions over and above the payment of the penalties hereby imposed.

7. CLAUSE (F.) Expenses of Inspectors.

And be it Enacted, That the Salaries of the Inspectors shall be levied on and paid and borne by the several Proprietors of the Fishings, comprised in the said several districts in the manner hereinafter provided for the payment of the Salaries of Clerks, Water Bailiffs, and other Officers, and the amount thereof shall be fixed by the said Proprietors, subject to the approbation of the Sheriffs, by whom they shall severally be appointed, but in no case exceeding , Pounds; and all Water Bailiffs and other Officers to be appointed under the authority of this Act, shall be under the direction and control of the Inspectors within their several districts, and the expense which shall be incurred in enforcing the laws as hereby directed, or in putting down and preventing illegal Fishing in any of the said districts, shall be borne and paid by the Proprietors of the Fishings within such districts respectively.

8. Provision as to angling with the Rod.

And be it Enacted, That after the expiration of the period at which the Salmon Fishing of the several Rivers and Streams in *Scotland* shall respectively close as aforesaid, Twenty-one clear Days shall be allowed during which it shall be lawful for the Proprietors of the Fishings of such respective Rivers, or of the Tacksmen of such Fishings, where the same shall be in lease, or such Person or Persons as shall be duly authorized by such Proprietors or Tacksmen, by permission in writing, to angle with the Rod for Salmon, Grilse, Sea Trout, or other fish of the Salmon kind; any thing in this Act, or the said recited Act of the ninth year of the reign of his Majesty King GEORGE the Fourth, to the contrary notwithstanding.

9. Penalty on not returning to the Water Salmon caught by Anglers in close time.

And be it Enacted, That if any Person angling in close time for Trout shall take any Salmon, or other fish of the Salmon kind, and shall fail forthwith to return the same to the water, such Person shall forfeit and pay a penalty not exceeding Five Pounds for each Fish so taken and not returned to the water, to be levied and applied as penalties are by the said last-recited Act directed to be levied and applied.

10. Meetings of Proprietors to assess themselves for Expenses.

And be it Enacted, That it shall be lawful, in *Scotland*, for any Two Proprietors of Salmon Fisheries in any River, Stream, Lake, Water or Estuary communicating therewith, from time to time to call Meetings of all the other Proprietors of Salmon Fisheries in such River, Stream, Lake, Water or Estuary, or on the Sea-coast as aforesaid, by Two several Adver-

Advertisements in any Newspaper published in the County where such Meeting is to be held, or if no Newspaper be there published, then in any Newspaper published in any adjoining County, and also in one *Edinburgh* Newspaper at least Fourteen Days before such Meeting shall be held; and at such Meetings, in order that the value of such Fishings may be ascertained, all the Proprietors shall produce the Tacks or Rentals of their Fishings; and at such Meetings it shall be lawful for the Majority of Proprietors in number and value attending, or represented, if absent, by their Factors, or by any other Proprietor present, holding a written mandate to act for them, to assess the whole Proprietors of Salmon Fishings in such River, Stream, Lake, Water or Estuary, Bay, Firth or Sea Loch, and on the Sea Coast as aforesaid, in such sum or sums as they shall think necessary and fit, rateably, according to the real Rents of their respective Fisheries for the preceding year, for the purpose of enforcing this Act, and other the Acts and Laws regulating or relating to Salmon Fisheries; and if any Proprietor shall fail to produce at such Meetings the Rental of such of his Fishings as may be let to Lessees or Tenants, or a just estimate of the value of such of his Fishings as may be in his own natural possession, or may be unlet, it shall be lawful for such Meeting to assess such Proprietor, failing as aforesaid, according to the best of their knowledge or belief of the value of the Fishings belonging to such Proprietor; and it shall be lawful for such Meetings to appoint, and out of the assessments to be so raised, to pay Clerks, Water Bailiffs and other Officers, as they shall think fit; and to offer and give Rewards for the prevention of the destruction of Salmon, or other fish of the Salmon kind, and Salmon Spawn or Fry; and all such assessments shall be recoverable in the Sheriff's Court, at the instance of any Inspector or of any Clerk or other Person authorized by such Meeting, in the same manner and under the same provisions and regulations as small debts are now recovered, under an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act for the more easy Recovery of Small Debts in the Sheriff Courts in *Scotland*," and this, notwithstanding the amount of such assessment shall exceed Eight Pounds.

11.
CLAUSE (G.) Saving recited Acts.

And be it Enacted, That the said recited Acts, and all the powers and provisions thereof, shall remain in full force and effect, excepting in so far as the same or any of them are hereby altered, repealed, or amended.

12.
Act may be altered.

And be it Enacted, That this Act may be varied, amended or repealed by any Act or Acts to be passed in the present Session of Parliament.

SCHEDULES to which this Act refers.

SCHEDULE (A.)

SHOWING the PERIODS of the CLOSE TIME to be observed within the several Districts following, respectively; videlicet,

FIRST DISTRICT:

From Duncansbayhead, in Caithness, to Tarbet Ness, in the county of Ross, comprising all the rivers, streams, lakes, waters, estuaries and sea coast situate between these two points, from the Twenty-fifth day of August to the Fourteenth day of January, both days inclusive.

SECOND DISTRICT:

From Tarbet Ness aforesaid to Fort George Point, in the county of Nairn, including the Beaulie Frith and the Rivers connected therewith, except the River Ness, from the Twentieth day of August to the First day of January, both days inclusive; and for the said River Ness from the Twentieth day of August to the First day of December, both days inclusive.

THIRD DISTRICT:

From Fort George Point aforesaid to the Knockhead of Cullen, in the county of Banff, from the First day of September to the Fourteenth day of January, both days inclusive.

FOURTH DISTRICT:

From the Knockhead of Cullen aforesaid to Troup-head, in the county of Banff, from the Fourteenth day of September to the Thirty-first day of January, both days inclusive.

FIFTH DISTRICT:

From Trouphead aforesaid to Dunnottar Castle, in the county of Kincardine, from the First day of September to the Fourteenth day of January, both days inclusive.

SIXTH DISTRICT:

From Dunnottar Castle aforesaid to the Redhead, in the county of Forfar, from the Fourteenth day of September to the last day of January, both days inclusive.

SEVENTH DISTRICT:

From the Redhead aforesaid to Fife Ness, from the Twenty-fifth day of August to the Fifteenth day of December, both days inclusive.

EIGHTH DISTRICT:

From Fife Ness aforesaid to Berwick Bounds, from the Twenty-fifth day of August to the Fifteenth day of December, both days inclusive.

NINTH DISTRICT:

From the confines of the Solway Frith to the Northern Boundary of the county of Ayr, from the Fourteenth day of September to the Thirty-first day of January, both days inclusive.

TENTH DISTRICT:

From the Northern Boundary of the county of Ayr to Ardnamurchan Point, in the county of Argyle, including all Western and other Islands situated within the parallels of the said two points, from the First day of September to the Thirty-first day of January, both days inclusive.

ELEVENTH

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ELEVENTH DISTRICT:

From Ardnamurchan Head aforesaid to the Point of the Coygach, in the county of Ross, with all the Western Islands situated within the parallels of these two points, from the First day of September to the Fifteenth day of January, both days inclusive.

TWELFTH DISTRICT:

From the Point of Coygach aforesaid to Duncansbayhead first hereinbefore mentioned, including "the Lewis," from the Twelfth day of August to the Thirtieth day of November, both days inclusive.

SCHEDULE (B.)

SHERIFFS, by whom the several INSPECTORS to be appointed under this Act shall be named.

Districts 1 & 12.—The Sheriff of Sutherland.
" - 2.—The Sheriff of Inverness.
" 3 & 4.—The Sheriff of Elgin.
" - 5.—The Sheriff of Aberdeen.
" - 6.—The Sheriff of Kincardine.
" - 7.—The Sheriff of Perth.
" - 8.—The Sheriff of Stirling.
" - 9.—The Sheriff of Ayr.
" - 10.—The Sheriff of Renfrew for the River and Firth of Clyde, extending from the confines of the county of Renfrew on the South, and the confines of the county of Dumbarton on the North, including all the fishings of the said River; and also the Rivers and Lakes connected therewith.

The Sheriff of Argyle, from the confines of the counties of Dumbarton and Argyle to the Point of Ardnamurchan.

" - 11.—The Sheriff of Ross.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To amend an Act of the Ninth Year of his late Majesty King GEORGE the Fourth, for the Preservation of the Salmon Fisheries in *Scotland*.

(*Prepared and brought in by*
Mr. Patrick Stewart and Mr. Loch.)

Ordered, by The House of Commons, *to be Printed,*
21 *August* 1835.

5 *June* 1835.

A

B I L L

To amend certain Acts of the Parliament of Scotland, respecting the Registration of Instruments of Sasine, and other Writings affecting Heritable Property within that part of the United Kingdom.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS an Act of the Parliament of Scotland was passed in the year One thousand six hundred and Seventeen, intituled, "Anent the Registration of Reversions, Seizins and other Writs," for the purpose of establishing certain public Registers, in which the various sorts of writings affecting Heritable Property therein enumerated or referred to shall be made patent to the lieges; and by two other Acts of the Parliament of Scotland, passed in the years One thousand six hundred and Sixty-nine and One thousand six hundred and Eighty-one, the provisions in the foresaid Act are extended to Instruments of Registration ad remanentiam, and to Writs affecting Heritable Property within Royal Burghs: Preamble.

And whereas by the said Acts it is specially provided and ordained, that "Extracts taken from such Registers shall make in all cases, except where the Writs so registered are offered to be improven," in a proper process of Reduction Improbation for that purpose:

And whereas doubts and questions have arisen as to the effect of Objections and Exceptions to the validity of such Instruments or Writings, founded on alleged erasures or vitiations in the principal Writs not patent to the lieges, nor appearing on the Record thereof, and which do not fall within the true scope and meaning of the exception in the before-mentioned Acts; and it is of the highest

importance to the security of the Land rights of Scotland, that such doubts and hazard of Objections should be removed;

Be it Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act* no Plea or Exception, founded on alleged erasure or vitiation in the principal Writ not appearing on the Record thereof, shall be held competent or admissible against the legal validity and effect of the Writs as recorded, any law or practice to the contrary notwithstanding; reserving to all Parties, who before the *Twelfth* day of *May* in this present year, shall have objected or excepted judicially to the validity of any recorded Writs, on the ground of erasure or vitiation, all Pleas that would have been competent to them before the *passing of this Act*; but declaring that such Objections, Exceptions and Pleas shall only be heard and made effectual in proper Actions of Reduction to be brought by them for that purpose.

1. No plea founded on alleged erasure not appearing on Record shall be deemed admissible, against legal validity of Writs recorded.

2. And be it Enacted, That this Act may be altered, amended or repealed, by any Act to be passed during the present Session of Parliament.

2. Act may be amended or altered this Session.

5 WILL. IV.—Sess. 1835.

A

B I L L

To amend certain Acts of the Parliament of Scotland, respecting the Registration of Instruments of Sasine and other Writings affecting Heritable Property within that part of the United Kingdom.

(*Prepared and brought in by The Lord Advocate, the Attorney General, and Mr. Cutlar Fergusson.*)

Ordered, by The House of Commons, to be Printed, 5 *June* 1835.

271.

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1 *July* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To amend certain Acts of the Parliament of *Scotland*, respecting the Registration of Instruments of Sasine, and other Writings affecting Heritable Property within that part of the United Kingdom.

Preamble.

WHEREAS an Act of the Parliament of *Scotland* was passed in the year One thousand six hundred and Seventeen, intituled, "Anent the Registration of Reversions, Seizins and other Writs," for the purpose of establishing certain public Registers, in which the various sorts of writings affecting Heritable Property therein enumerated or referred to shall be made patent to the lieges; and by two other Acts of the Parliament of *Scotland*, passed in the years One thousand six hundred and Sixty-nine and One thousand six hundred and Eighty-one, the provisions in the foresaid Act are extended to Instruments of Resignation ad remanentiam, and to Writs affecting Heritable Property within Royal Burghs:

And whereas doubts and questions have arisen as to the validity of Instruments of Sasine and Resignation recorded in such Registers, founded on alleged erasures in the principal Writs not patent to the lieges, nor appearing on the Record thereof; and it is of the highest importance to the security of the Land rights of *Scotland*, that such doubts should be removed;

I.
No plea founded on alleged erasure not appearing on Record shall be deemed admissible, against legal validity of Writs recorded.

BE it Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, it shall not be competent to any Party to challenge, question or except against the legal validity and effect of any

Instrument or Instruments of Sasine or of Resignation, on the ground that some part or parts of the principal Instrument or Instruments has or have been written upon an erasure or erasures, unless it shall at the same time be alleged and offered to be proved, in a Process of Reduction-improbation, that the same has been done fraudulently and falsely, or that the same has thereby been made inconsistent with the Warrant or Warrants therein founded on, or with the Record thereof; reserving to all Parties, who before the Twelfth day of May in this present year, shall have objected judicially to the validity of any such Writ or Writs on the ground of erasure, all Pleas that would have been competent to them before the passing of this Act.

2. Act may be amended or altered this Session.

And be it Enacted, That this Act may be altered, amended or repealed, by any Act to be passed during the present Session of Parliament.

6 WILL. IV.—Sess. 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To amend certain Acts of the Parliament of *Scotland*, respecting the Registration of Instruments of Sasine and other Writings affecting Heritable Property within that part of the United Kingdom.

(*Prepared and brought in by The Lord Advocate, the Attorney General, and Mr. Cutlar Fergusson.*)

Ordered, by The House of Commons, to be Printed,
1 *July* 1835.

336.

/57

13 *July* 1835.

A

B I L L

[AS AMENDED ON RE-COMMITMENT]

To amend certain Acts of the Parliament of *Scotland*, respecting the Registration of Instruments of Sasine, and other Writings affecting Heritable Property within that part of the United Kingdom.

Preamble.

WHEREAS an Act of the Parliament of *Scotland* was passed in the year One thousand six hundred and Seventeen, intituled, "Anent the Registration of Reversions, Seizins and other Writs," for the purpose of establishing certain public Registers, in which the various sorts of writings affecting Heritable Property therein enumerated or referred to shall be made patent to the lieges; and by two other Acts of the Parliament of *Scotland*, passed in the years One thousand six hundred and Sixty-nine and One thousand six hundred and Eighty-one, the provisions in the foresaid Act are extended to Instruments of Resignation ad remanentiam, and to Writs affecting Heritable Property within Royal Burghs:

And whereas various questions have arisen as to the validity of Instruments of Sasine and Resignation recorded in such Registers, founded on alleged erasures in the principal Writs not patent to the lieges, nor appearing on the Record thereof; and thereby a want of confidence in the security of the Land rights of *Scotland*, has been produced, which ought to be removed;

I.
No plea founded on alleged erasure not appearing on Record shall be deemed admissible, against legal validity of Writs recorded.

BE it Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, it shall not be competent to reduce any Instrument of Sasine or Resignation, or to challenge, question

except against the legal validity and effect of the same, on the ground that some part or parts of the principal Instrument has or have been written upon an erasure or erasures: Provided always, That it shall be competent to reduce any Instrument of Sasine or Resignation on the ground of fraud, or that the same is inconsistent with the Warrant or Warrants therein founded on, and also reserving to all Parties, who before the Twelfth day of May in this present year shall have objected judicially to the validity of any such Writ or Writs on the ground of erasure, all Pleas that would have been competent to them before the passing of this Act: Provided always, That where any feudal Title of Property or insecurity has been completed, in order to remedy or supply defects arising from erasures in Instruments of Sasine, the validity of the said Titles shall be judged of in the same manner and to the same effect as if this present Act had not passed.

2. Act may be amended or altered this Session.

And be it Enacted, That this Act may be altered, amended or repealed, by any Act to be passed during the present Session of Parliament.

6 WILL. IV.—Sess. 1835.

A

B I L L

[AS AMENDED ON RE-COMMITMENT]

To amend certain Acts of the Parliament of *Scotland*, respecting the Registration of Instruments of Sasine and other Writings affecting Heritable Property within that part of the United Kingdom.

(*Prepared and brought in by The Lord Advocate, the Attorney General, and Mr. Cutlar Fergusson.*)

Ordered, by The House of Commons, *to be Printed,* 13 *July* 1835.

384.

153

5 *June* 1835.

A

B I L L

To extend to Scotland certain Provisions of an Act of the Ninth Year of his late Majesty, to consolidate and amend the Laws relating to Savings Banks, and to consolidate and amend the Laws relating to Savings Banks in Scotland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient to extend to Scotland certain Provisions of an Act of the ninth year of his late Majesty, to consolidate and amend the Laws relating to Savings Banks, and to amend the Law relative to Savings Banks in Scotland, and to consolidate the same in one Act, and to make other Provisions respecting Savings Banks in Scotland; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT an Act passed in the fifty-ninth year of the reign of King GEORGE the Third, intituled, "An Act for the Protection of Banks for Savings in Scotland," shall be and the same is hereby Repealed: Provided nevertheless, That such Repeal shall not invalidate or affect any thing which has been done before the passing of this Act in pursuance of the said Act: And provided also, That the provisions of the said Act shall continue in force as to all Savings Banks established under it before the *passing of this Act*, unless and until they shall conform to and be established under the provisions of this Act in manner hereinafter provided.

1.

Repeal of 59 Geo. 3. c. 62.

Not to invalidate proceedings under the Act,

nor to affect existing Banks.

2.

What Institutions shall be entitled to the Privileges and Benefits of this Act.

AND whereas certain Banks for Savings have been established in Scotland, for the safe custody and increase of small Savings belonging to the industrious classes of His Majesty's subjects, and it is expedient to give protection to such institutions and the funds thereby established,

and to afford encouragement to others to form the like institutions; BE it Enacted, That if any number of Persons have formed, or shall form, any Society in Scotland for the purpose of establishing and maintaining any institution in the nature of a Bank, to receive Deposits of Money for the benefit of the Persons depositing the same, to accumulate the produce of so much thereof as shall not be required by the Depositors, their heirs, executors or assignees, at compound interest, and to return the whole or any part of such Deposit, and the produce thereof, to the Depositors, their heirs, executors or assignees, deducting only out of such produce so much as shall be required for the necessary expenses attending the management of such institution, and shall be desirous of having the benefit of the provisions of this Act, such Persons shall cause the Rules and Regulations established, or to be established, for the management of such institutions, to be entered, deposited and filed, in manner hereafter directed, and thereupon shall be deemed to be entitled to and shall have the benefit of the provisions contained in this Act: Provided always, That the privilege of paying money into the Bank of England, and of receiving receipts for the same, shall be and the same is hereby declared to be extended to such institutions as may form their Rules and Regulations according to the provisions of this Act; and it shall and may be lawful for the Trustees of such institutions respectively to invest any funds already accumulated by such institutions, and to receive receipts for the same in manner authorized by this Act: Provided nevertheless, That no such institution to be hereafter formed shall have or be entitled to the benefit of the provisions in this Act contained, unless the formation of the same shall have been sanctioned and approved of by the Justices of Peace of the County or Stewartry where such institution is intended to be held at the Quarter Sessions, and by the Commissioners for the Reduction of the National Debt, or on their behalf by the Comptroller General or Assistant Comptroller General acting under the said Commissioners.

Rules to be entered and deposited.

Savings Banks not to be formed in future without certain sanction in the first instance.

3. Rules of Institution to be entered, &c.

And be it Enacted, That no such institution as aforesaid shall have the benefit of this Act unless the Rules and Regulations for the management thereof shall be entered in a book or books, to be kept by an Officer of such institution to be appointed for that purpose; and which book or books shall be open at all seasonable times for the inspection of the Persons making Deposits in the funds of such institution, and unless such Rules and Regulations shall be fairly transcribed or printed on paper or parchment, and such transcript or printed copy deposited with the Clerk of the Peace for the County or Stewartry wherein such institution shall be established; which transcript or printed copy shall be filed by such Clerk of the Peace with the Rolls of the Sessions of the Peace in his custody, and a certificate of the enrolment thereof shall be signed by such Clerk of the Peace on a duplicate copy to be provided by and returned to such institution, on payment of a fee of

Book to be open to inspection.

Certificate of Enrolment.

Ten

Ten Shillings in respect thereof; but nevertheless, nothing herein contained shall extend to prevent any alteration in or amendment of any such Rules or Regulations so entered and deposited and filed as aforesaid, or repealing or annulling the same, or any of them, in whole or in part, or making any new Rules or Regulations for the management of such institutions in such manner as by the Rules and Regulations of such institutions shall from time to time be provided; but such new Rules or Regulations, or such alterations in or amendments of former Rules or Regulations, or any order annulling or repealing any former Rule or Regulation, in whole or in part, shall not be in force until the same respectively shall be entered in such book or books as aforesaid, and a transcript or printed copy thereof deposited with such Clerk of the Peace as aforesaid, who shall file and certify the same as aforesaid, on payment of a fee of *Five* Shillings.

Alteration, &c. of Rules.

New Rules to be entered and deposited in like manner.

4.

And be it further Enacted, That before a transcript or printed copy of the Rules and Regulations, or alterations in or amendments of former Rules or Regulations for the management of any institution requiring the benefit of this Act, shall be deposited with the Clerk of the Peace for the County or Stewartry wherein such institution shall be established, pursuant to the directions of this Act, such transcript shall be submitted by the Trustees or Managers for the time being of each respective institution, and at the expense of the said institution, to a Member of the Faculty of Advocates of Scotland, to be appointed by the Commissioners for the Reduction of the National Debt, for the purpose of ascertaining whether the same are in conformity to law, and with the provisions of this Act; and that the said Advocate shall give a Certificate thereof, or point out in what part or parts they are repugnant thereto, and the fee to be paid to such Advocate for perusing the rules, regulations, alterations or amendments of each respective institution, and giving such certificate as aforesaid, shall not at any one time exceed the sum of *One* Guinea, and such transcript or printed copy shall be signed by *Two* Trustees, and shall, together with the certificate of such Barrister, be laid before the Justices for such County or Stewartry at the General or Quarter Sessions; and it shall be lawful for such Justices then and there present, after due examination thereof, to reject and disapprove of any part or parts thereof, or to allow and confirm the same, or such part or parts thereof as shall be conformable to the true intent and meaning of this Act: Provided always, That the said parties shall signify such rejection or disapproval of any one or more of these Rules, Orders and Regulations, by the words "Rejected" or "Disapproved" written opposite such Rule or Rules, Orders or Regulations, and signed by the Chairman of such Sessions; and such Rule, Order or Regulation as shall be so rejected or disapproved, shall not be in force from the time of such rejection or disapproval, any thing in this Act, or any such Rules, Orders and Regulations to the contrary notwithstanding: Provided always, That the said Clerk of the Peace do, within the

Rules to be submitted to an Advocate,

to ascertain if they are in conformity to law, &c.

Rules and Advocate's Certificate to be laid before the Justices,

who may reject or confirm.

space of *Ten* Days next after such rejection or disapproval, give notice thereof in writing to the *Two* Trustees of such institution, by whom the transcript or copy of such Rules, Orders and Regulations shall be signed as aforesaid: And provided also, That nothing herein contained shall be construed to require any Rule making any alteration in the hours of attendance at any such institution as aforesaid, to be laid before such Barrister as aforesaid previous to the enrolment thereof.

5.
Rules when entered and deposited to be binding on Depositors.

And be it further Enacted, That all Rules and Regulations from time to time made and in force for the management of such institutions as aforesaid, and duly entered in such book or books as aforesaid, and deposited with such Clerk of the Peace as aforesaid, shall be binding on the several Members and Officers of such institution, and the several Depositors therein, and their Representatives, all of whom shall be deemed and taken to have full notice thereof by such entry and deposit as aforesaid; and the entry of such Rules and Regulations in such book or books as aforesaid, or the transcript or copy thereof deposited with such Clerk of the Peace as aforesaid, or a true copy of such transcript examined with the original, and proved to be a true copy, shall be received as evidence of such Rules and Regulations respectively in all cases; and no suspension, advocation, reduction or other legal process shall be competent, or shall be brought or allowed to remove any such Rules or Regulations into any of His Majesty's Courts; and every copy of any such transcript, or printed copy, deposited with any Clerk of the Peace as aforesaid, shall be made by such Clerk of the Peace when duly required, and without fee or reward, except the actual expense of making such copy, and such copy shall not be subject to any Stamp Duty.

Copy of Rules to be received as Evidence.

Expense of making Copy.

6.
Treasurer, Trustee or Manager, &c. not to derive any Benefit from the Institution.

And be it further Enacted, That no such institution as aforesaid shall have the benefit of this Act unless it shall be expressly provided by the Rules and Regulations for the management thereof, that no Person or Persons, being Treasurer, Trustee or Manager of such institution, or having any control in the management thereof, shall, by virtue of such offices, derive any benefit from any Deposit made in such institutions, save only and except such salaries and allowances, or other necessary expenses, as shall, according to such Rules and Regulations, be provided for the charges of managing such institution, and for remuneration to officers employed in the management thereof, exclusive of the Treasurer or Treasurers, Trustee or Trustees, Manager or Managers, or other Persons having direction in the management of such institution, who shall not by virtue of such offices, directly or indirectly, have any salary, allowance, profit or benefit whatsoever therefrom, beyond their actual expenses for the purposes of such institution: Provided nevertheless, That all such Persons shall be entitled to make Deposits in the same manner, and upon the same terms and conditions as other Depositors.

And

7.

Treasurer and other Officer intrusted with receipt or custody of Money to give Security.

And be it further Enacted, That every Treasurer, Actuary or Cashier, who shall be intrusted with the receipt or custody of any sum of Money subscribed or deposited for the purpose of such institution, or any Interest or Dividend from time to time accruing therefrom, and every Officer or other Person receiving any salary or allowance for their services from the funds of any Savings Banks, unless he shall already have given good and sufficient security, shall give good and sufficient security, to be approved of by not less than *Two* Trustees and *Three* Managers of such Savings Banks, for the just and faithful execution of such office or trust, and such security shall be given by Bond or Bonds to the Clerk of the Peace for the County or Stewartry, or to the Town Clerk of the Place where such institution shall be established for the time being, without any fee or reward, to such Clerk of the Peace, or Town Clerk, for any trouble necessarily had by him in relation thereto; and, in case of need, it shall be lawful for the Trustee or Trustees for the time being of such institution, to raise action or diligence upon such Bond or Bonds in the name of such Clerk of the Peace or Town Clerk for the time being, and to carry on such action or diligence at the costs and charges and for the use of the said institution, fully indemnifying and saving harmless such Clerk of the Peace or Town Clerk from all costs and charges in respect of such suit; and no Bond to be so given shall be subject to or charged or chargeable with any Stamp Duty whatever.

Security to be given by Bond to Clerk of Peace.

Trustees, &c. may sue upon Bonds in name of Clerk of Peace.

Indemnifying Clerk of Peace from Costs, &c.

Bond not subject to Stamp Duty.

8.

Effects of Institution vested in Trustees for time being, without fresh Assignment.

And be it further Enacted, That all Monies, Goods, Property and Effects whatever, and all Securities for money or other obligatory instruments, and rights and titles, and all other effects whatever, and all rights or claims belonging to or had by such institution, shall be vested in the Trustee or Trustees of such institution for the time being, for the use and benefit of such institution and the respective Depositors therein, their respective executors or assignees, according to their respective claims and interests; and after the death or removal of any Trustee or Trustees, shall vest in the succeeding Trustee or Trustees for the same estate and interest as the former Trustee or Trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever; and also shall, for all purposes of action or diligence, as well criminal as civil, in law or in equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (where necessary) be stated to be, the Property of the Person or Persons appointed to the office of Trustee or Trustees of such institution for the time being, in his, her or their proper name or names, without further description; and such Person or Persons shall and they are hereby respectively authorized to bring or defend, or cause to be brought or defended, any action, diligence or prosecution, criminal as well as civil, in law or equity, touching or concerning the property, right or claim aforesaid, of or belonging

In all Actions, &c. to be stated as Property of Persons who are Trustees.

Who may bring and defend Actions, &c. To sue, &c. as Trustee or Trustees.

belonging to or had by such institution; and such Person or Persons so appointed shall and may, in all cases concerning the property, right or claim aforesaid of such institution, pursue and defend in his, her or their proper name or names, as Trustee or Trustees of such institution, without other description; and no such action, diligence or prosecution shall be discontinued or abate by the death of such Person or Persons, or his or their removal from the office of Trustee or Trustees as aforesaid, but the same shall and may be proceeded in by the succeeding Trustee or Trustees in the proper name or names of the Person or Persons commencing the same, any law, usage or custom to the contrary notwithstanding; and such succeeding Trustee or Trustees shall pay or receive like expenses, as if the action or suit had been commenced in his or their name or names for the benefit of, or to be reimbursed from, the funds of such institution.

No Action, &c. to abate on account of Death or Removal of Trustee.

Costs.

9.

Liability of Trustees or Manager.

And be it further Enacted, That no Trustee or Manager shall be personally liable except for his own acts and deeds, nor for any thing done by him in virtue of his office in the execution of this Act, except in cases where he shall be guilty of wilful neglect or default.

10.

Treasurer and Trustees, &c. to account and deliver up Effects when required;

And be it further Enacted, That all and every Person or Persons having direction or employed in the management of such institution, who shall have or receive any part of the Monies, Effects or Funds of or belonging to such institution, or shall in any manner have been or shall be intrusted with the disposition, management or custody thereof, or of any securities, books or papers, or property relating to the same, his, her or their executors and assignees respectively, shall,

upon demand of Two Trustees and Three Managers;

upon demand made in pursuance of any order of not less than *Two* Trustees and *Three* Managers of such institution, or at any General Meeting of the Trustees or Managers thereof, give in his, her or their account or accounts to the said Trustees or Managers, or to such General Meeting of such institution, or to such other Person or Persons who shall be nominated to receive the same, to be examined and allowed or disallowed by the said Trustees or Managers respectively, and shall, on the like demand, pay over all the Monies remaining in his or their hands, and assign and transfer, or deliver all securities and effects, books, papers and property, in his or their hands or custody, to such Person or Persons as the said Trustees or Managers shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such Monies, or to assign, transfer, or deliver such securities, effects, funds, books, papers or property in manner aforesaid, it shall be lawful to and for the Trustee or Trustees of such institution for the time being, to present a Petition to the Sheriff or Stewart, or his substitute, for the County or Stewartry wherein such institution shall be established, who shall and may proceed thereupon in a summary way, and make such order therein,

and pay over all Monies, &c.

In case of refusal, &c. application may be made to Justices at Sessions,

who may proceed in a summary way, &c.

upon

upon hearing all parties concerned, as in his discretion shall seem just, which order shall be final and conclusive; and no suspension, advocation or reduction shall be competent; and all assignations, sales and transfers, made in pursuance of such order, shall be good and effectual in law to all intents and purposes whatsoever.

All Assignments, &c. declared to be valid.

11.

Money belonging to Savings Banks to be invested in Bank of England, &c.

And be it further Enacted, That the several sums of Money belonging to any Savings Bank, established under this Act, which the Trustees of such Savings Bank respectively are authorized to invest under this Act, or under any Rules or Regulations of any such Savings Bank, shall either be paid into and invested in the Bank of England, in the names of the Commissioners for the Reduction of the National Debt, according to the provisions of this Act, enabling such Trustees to make investments in the names of the said Commissioners, or in any of the Chartered Banks in Scotland, or in the Bank of the Commercial Banking Company of Scotland, or be laid out and disposed of on heritable securities, to be approved of by the Trustees or Managers of such Savings Bank, in such manner as shall be directed by the Rules and Regulations of such Savings Bank, provided that not more than *One-third* part of the whole funds of any Savings Bank shall at any time be disposed of, or allowed to remain longer than such time as may be necessary for calling up the same, on such heritable securities; and no such sum or sums shall be paid or laid out by the Trustees of such Savings Bank in any other manner, or upon any other security whatever, except such sums of Money as from time to time shall necessarily remain in the hands of the Treasurer or Treasurers to answer the exigencies thereof: Provided always, That nothing herein contained shall restrain or prevent any Depositor, or any Trustee or Trustees acting on behalf of any Depositor or Depositors, or any Friendly Society, or any Charitable or Provident Institution or Society, from withdrawing from any such Savings Bank any sum or sums of Money which shall have been deposited by such Depositor, Friendly Society, Charitable or Provident Institution or Society, and investing the same in any other securities: Provided always, That the Trustees of any institution already established, or which shall take the benefit of this Act in manner hereinbefore provided, shall be and they are hereby empowered to pay into the Bank of England, as the case may be, any sum or sums of Money not being less than *Fifty* Pounds, to the account of the Commissioners for the Reduction of the National Debt, upon the declaration of the Trustees of such institution, or any *Two* or more of them, that such Monies belong exclusively to the institution for which such payment is intended to be made, whether such Monies shall have been deposited therein before the passing of this Act, or thereafter shall be deposited therein; and the Cashier or Cashiers of the Bank of England are hereby required to receive all such Monies, and to place the same into the account raised in the

Not to prevent Depositors from withdrawing their Money from Savings Banks.

Bank of England, on receiving 50*l.* from Savings Bank on account of the Commissioners for the Reduction of the National Debt, to place the same to account called "The Fund for the Banks for Savings."

Previous to payments, an Order shall be produced, and Certificate.

names of the said Commissioners in the books of the Bank of England, denominated "The Fund for the Banks for Savings:" Provided always, That previous to any payment being made into the Bank of England as aforesaid, the Person or Persons applying for that purpose shall in all cases produce to the Officer of the said Commissioners, at their office in London, an Order under the hands of *Two* of the Trustees of such institution, on the account of which such payment is to be made.

12.

Not to prevent Trustees from receiving Money to be applied in any other manner.

Provided always, That nothing in this Act contained shall extend to prevent the Trustees of any Savings Bank, already established or to be established, receiving any sum or sums of Money from any Depositor for any purpose, except to be paid or invested in manner hereinbefore provided; and that it shall be lawful for such Trustees to apply any such sum or sums of Money in any other manner for the benefit of the several Depositors, according to the Rules and Regulations of such Savings Banks respectively; any thing in this Act contained to the contrary notwithstanding.

13.

Central Banks may invest the Money of Branch Banks.

And be it further Enacted, That in cases where any Banks for Savings have been or shall be established in any town or place, and other smaller Banks have been or shall be established in the neighbourhood of such town or place, as Branch Banks thereof, and such Branch Banks, by their Treasurers, have paid or shall pay any sums into the Bank in any such town or place as a Central Bank, it shall and may be lawful for the said Trustees, or any *Two* of them, of any such Central Bank, to pay into the Bank of England, in manner prescribed by this Act, along with the Monies belonging to such Central Bank, any sum or sums of Money belonging to and on account of any such Branch Bank: Provided always, That the Treasurer of such Branch Banks shall certify to the Treasurer of such Central Bank, that the amount contributed by any One Subscriber to any such Branch Bank in any One Year does not exceed the proportions authorized by this Act.

Certificate of Treasurer of Branch Bank.

14.

Penalty on false Declaration to obtain Receipts.

And be it further Enacted, That if any order or declaration produced to the said officer, for the purpose of paying Monies into the Bank of England to the account of the said Commissioners as aforesaid, shall contain any matter or thing which may be found to be false or untrue, then and in every such case the sum so paid shall be forfeited to the said Commissioners.

15.

Monies paid in on Savings Bank account to be invested in Bank Annuities or Exchequer Bills.

And be it further Enacted, That the said Commissioners shall cause all the Monies paid into the Bank of England, and placed to their account in pursuance of the provisions of this Act, to be invested from time to time, under such regulations as the said Commissioners

shall

shall direct, in the purchase of Bank Annuities or Exchequer Bills, or in either of them, in their names, and to be carried to the account hereinbefore provided; and the Interest which shall arise from time to time, and become due thereon, shall in like manner be invested in the purchase of Bank Annuities or of Exchequer Bills as aforesaid.

16. Trustees of Savings Banks to receive Receipts carrying Interest at 2 ½ *d.* per cent. per diem, i. e. 3 *l.* 16 *s.* 0 ½ *d.* per cent. per annum.

And be it further Enacted, That, upon the payment of any sum or sums of Money into the Bank of England, to the account of the said Commissioners by the Trustees of any Savings Bank, it shall be lawful for the Officer or Officers of the said Commissioners in that behalf, and he and they is and are hereby authorized and empowered to issue, upon every such payment being made, a receipt signed by One of the Cashiers of the Governor and Company of the Bank of England for the amount of such payment, carrying interest at the rate of *Two-pence-halfpenny* per centum per diem from the day of such payment inclusive, payable with the principal at the Bank of England, whenever the same shall be required or drawn for in manner directed by this Act; and such receipt shall be dated on the day on which the payment of any such sum or sums of Money shall be made respectively; and every such receipt shall be in such form as shall be from time to time directed by the said Commissioners; and the principal and interest of all sums mentioned in any receipt shall be charged and chargeable upon, and the same are hereby charged and made payable out of all or any monies standing in any account in the names of the said Commissioners, or out of any monies produced by the sale of any stock or annuities, funds or Exchequer Bills, standing in their names in the books of the Bank of England, as the said Commissioners shall from time to time direct.

17. Interest due on Money mentioned in Receipt, to be calculated half-yearly up to 20th May and 20th November, and carried to account of Savings Bank as additional Principal.

And be it further Enacted, That all Interest which shall become due and payable upon any sum of Money mentioned in any such receipt, upon the *Twentieth* day of *November* and the *Twentieth* day of *May* in every year next after the date of any such receipt, shall be from time to time calculated and computed by the Officer of the said Commissioners, and shall in each and every year be placed to the credit of the Savings Bank on whose account any such sum of Money was paid within *Six* Weeks from such *Twentieth* day of *November* and *Twentieth* day of *May* respectively, and shall be carried to and written on the account of such Savings Bank, and shall become Principal, and shall from thenceforth carry Interest as principal Money paid into the said Bank of England, on the account of such Savings Bank; and a receipt, according to such form as the said Commissioners shall approve, shall be signed by the Officer of the said Commissioners, and shall be issuable by the said officer half-yearly, within *Six* Weeks after such *Twentieth* day of *November* and *Twentieth* day of *May* respectively (and such receipts shall bear date

the *Twenty-first* day of *November* and *Twenty-first* day of *May* respectively), for the amount of such interest so credited and made principal as aforesaid, as if the amount thereof had been a payment made by the Trustees of such Savings Bank to the account of the said Commissioners: Provided always, That no Interest shall be computed or calculated on the fractional part of a Pound, or any sum less than a Pound, of the half-yearly balance standing in the books of the said Commissioners on account of any Savings Bank on any *Twentieth* day of *November* or *Twentieth* day of *May* respectively: Provided also, That it shall be lawful for the Managers and Trustees of any such Savings Bank, and they are hereby authorized and required to direct that all Interest which shall become due and payable to each Depositor on any sum of Money deposited in such Savings Bank, shall either yearly or twice in each and every year be calculated and computed by the Trustees of such Savings Bank, or such Person or Persons as they shall appoint, and shall be carried to the credit of the Person or Persons depositing the said sum or sums of Money, and shall become Principal, and shall from thenceforth carry Interest in all respects as other principal Money deposited in the said Banks, or as if the said sum of Interest so calculated had actually been paid to the said Depositors, and by them repaid to the said Trustee or Trustees, any law, statute or usage to the contrary notwithstanding.

No Interest on fractional parts of a Pound.

Interest arising to Depositors may be calculated yearly or twice a year, and carried to their credit as Principal.

18.

Before drawing for Money, Trustees shall sign Appointment of Agent to receive the same, which Appointment shall be deposited with Commissioners.

And be it further Enacted, That before any Trustees of any Savings Bank shall make any Order or Draft for payment, by the said Commissioners, of any sum or sums of Money under this Act, the Trustees of such Savings Bank shall make, give, sign and execute an Appointment under the hands and seals of not less than *Two* of such Trustees, and the execution of which shall be attested by *Two* Managers of the same Savings Bank, empowering and authorizing some Person or Persons named in such appointment, to be Agent or Agents for receiving all and every such sum and sums of Money as such Trustees shall from time to time require to be paid by such Commissioners, and every such appointment shall be produced by or on behalf of the Person or Persons named therein to the Officer of the said Commissioners, *Fourteen* Days at least before the payment of any sum or sums of Money on account of such Savings Bank, and such appointment shall remain deposited in the office of such Officer, and every such appointment shall be made in such form and under such regulations as shall from time to time be directed, or required, or approved of by the said Commissioners or their Officer: Provided always, That it shall and may be lawful for the Trustees of any Savings Bank by whom any such appointment shall be made, given, signed and executed, or for the survivors or survivor of such Trustees, to revoke such appointment by any certificate or other instrument under the hands and seals or hand and seal of such Trustees or Trustee, attested by

Appointments may be revoked, and others granted from time to time.

Two

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Two Managers of such Savings Bank, and in such form and under such regulations as shall be directed or required or approved of by the said Commissioners or their Officer; and in case of the decease of every such Trustee except one, it shall and may be lawful for the surviving Trustee, together with any other Trustee or Trustees, being not less than *Two* of the said Savings Bank; and in case of the decease of all such Trustees, or in case all such Trustees shall decline or refuse to act, it shall and may be lawful for not less than *Two* other Trustees of the said Savings Bank from time to time to make, give and execute an appointment in manner aforesaid, re-appointing the Person or Persons named in such appointment, or any other Person or Persons in his or their room or stead, to be the Agent or Agents of such Trustees; and every such certificate or instrument of revocation, and every such new appointment shall be produced to the Officer of the said Commissioners by the Person or Persons named in such new appointment, *Fourteen* Days at least before the payment of any sum or sums of Money to the Person or Persons named in such new appointment, and shall remain deposited in the office of such Officer.

In case of decease, &c. of Trustees, Two other Trustees may execute Appointment.

New Appointment to be produced.

19.

Trustees of Savings Bank may draw at any time for the whole or any part of any sum placed to their account, by Drafts on Commissioners for Reduction of the National Debt, which shall be endorsed by their officer, with the Interest added thereto, and paid by the Cashiers of the Bank.

And be it further Enacted, That it shall and may be lawful for the Trustees of any such Savings Bank, from time to time (by any draft or order in writing under the hands of any *Two* Trustees of such Savings Bank, attested by *Two* other Trustees or Managers, or by any *Two* credible Witnesses, according to such form as the said Commissioners for the Reduction of the National Debt shall from time to time direct), to require that the whole or any part of the principal sum or sums of Money standing in the books of the said Commissioners to the credit of the Trustees of such Savings Bank respectively, shall be paid to such Person or Persons as such Trustees shall from time to time require, being the Agent or Agents named in some appointment executed under this Act, and lodged with the Officers of the said Commissioners, as hereinbefore mentioned, and then remaining in force; and every such draft or order shall be addressed to the said Commissioners, and upon the same being produced to the Officer of the said Commissioners, the said Officer shall, within *Five* Days after the production thereof, upon the back of such draft or order endorse and sign an order in such form as shall or may from time to time be directed and required by the said Commissioners, for the payment of the sum mentioned in the draft or order of such Trustees, together with the amount of all Interest due on such sum up to the day immediately preceding the day of the date of the order of such Officer, and which order of such Officer, previous to the issuing thereof, shall be entered and countersigned by the Clerk or other proper Officer making such entry, and shall be addressed to the Cashiers of the Governor and Company of the Bank of England, and such Cashiers, or one of them, shall, upon the production of such order, pay the sum mentioned therein to the Person or Persons mentioned in the draft or order of the said Trustees, and the signature of

Draft or Order to be addressed to Commissioners.

Cashiers, upon production of Order, to pay sum mentioned therein.

such Person or Persons, jointly or severally, shall be a sufficient discharge to the said Commissioners, and to the said Governor and Company respectively; and all payments made in pursuance of such drafts or orders respectively shall be deemed and taken to be payments made by the said Commissioners to the Trustees of such Savings Banks respectively, according to the numerical order and priority of date in which the original receipts of Money deposited on account of such Savings Banks respectively shall have been issued to the Trustees thereof respectively, in manner hereinbefore mentioned.

20.
Drafts exceeding 5,000 *l.* and upwards shall be signed by Trustees, and attested by separate Witnesses.

Provided always, and be it further Enacted, That whenever the sum to be drawn for by the Trustees of any Savings Bank shall exceed *Five thousand* Pounds, the draft or order for that purpose shall be signed by not less than *Four* such Trustees, and that the signature of each and every of the said *Four* Trustees shall be separately attested by at least One Manager of such Savings Bank, or by some One other credible Person, and that any Manager or other Person attesting the signature of any One of the said *Four* Trustees shall not be an attesting witness to the signature of any other of such *Four* Trustees: Provided also, That whenever the sum or sums drawn for by one or more drafts by the Trustees of any Savings Bank, or by the Trustees of any Friendly Society, shall exceed the sum of *Ten thousand* Pounds, the amount of such draft or drafts (if more than one) shall not be payable or be paid by the Officer of the said Commissioners until the expiration of *Fourteen* Days next after the day when the draft or drafts for such sum or sums shall be produced to the said Officer.

Draft exceeding 10,000 *l.* not to be paid until after 14 Days.

21.
Officer not to issue in any one Day orders for more than 10,000*l.* for the same Bank.

Provided always, and be it Enacted, That such Officer shall be and he is hereby restrained from issuing any order or orders for payment as aforesaid, bearing the same date upon any one day, on account of the same Savings Bank or Friendly Society, exceeding in amount the principal sum of *Ten thousand* Pounds, any thing hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also, That in case any One or more Trustee or Trustees of any Savings Banks, who shall have made, given, signed and executed any such appointment, shall at any time appear in person at the office of the said Commissioners in England, and require payment of any sum or sums of Money which might be required by the Person or Persons authorized to receive the same by such appointment; or if any Trustee or Trustees of any Savings Bank shall appear in person where no such appointment shall have been made, and if such Trustee or Trustees so appearing shall produce a draft or order, signed by any *Two* or more Trustees of such Savings Bank, for any sum under *Five thousand* Pounds, or by any *Four* or more Trustees for sums exceeding *Five thousand* Pounds, no such Trustee or Trustees, being himself or themselves a party or parties who signed such draft or order, and if the identity of the person of the Trustee or Trustees

Trustees appearing in Person may receive payments of Drafts of Trustees instead of their Agents.

so

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so appearing shall be ascertained to the satisfaction of the said Commissioners or their Officer, it shall be lawful for the said Officer to direct payment to be made to such Trustee or Trustees so appearing, of any sum or sums required to be paid by such order or draft, in like manner as if the Person or Persons authorized by such appointment to receive the same had required such payment, any thing hereinbefore contained to the contrary in anywise notwithstanding: Provided nevertheless, That notwithstanding the payment made to such Trustees or Trustee appearing in person, the appointment of such Person or Persons as aforesaid, in case such shall have been made, shall remain in full force and virtue until revoked by the Trustees, as hereinbefore mentioned.

Appointment of Agent to remain in force till revoked by Trustees.

22.

Trustees, &c. to ascertain amount of Surplus Fund, and appropriate same;

And be it further Enacted, That the Trustees, Managers and Directors of any Savings Bank already established in Scotland, which may hereafter conform to and take the benefit of the provisions of this Act, by preparing, enrolling and depositing their Rules as aforesaid, shall, within *Six* Weeks after the *Twentieth* day of *November* next ensuing after the date of such enrolment of their Rules under this Act, ascertain the amount of the increased stocks or funds of their respective Banks, up to the said *Twentieth* day of *November*, and shall, as soon after as conveniently can be, after retaining so much thereof as may be necessary for or towards the future purposes and management of the said Savings Banks respectively, appropriate the same in the manner provided for by their respective Rules and Regulations made before the passing of this Act; or in the event of no provision having been made by such Rules and Regulations, then in such manner as the Trustees, Managers or Directors, or other Persons legally intrusted with the management thereof, or the major part of them, assembled at any general meeting to be convened according to the respective Rules and Regulations of such Savings Banks, shall think fit and proper; any thing herein contained to the contrary notwithstanding.

in manner provided by Rules.

Mode of appropriation if no Rules, &c.

23.

From 20th November 1834, surplus to be transferred to Commissioners for Reduction of National Debt.

And be it further Enacted, That in all cases where the joint stock or property of any Savings Bank arising from Deposits made under this Act shall, from and after the *Twentieth* day of *November One thousand eight hundred and Thirty-four*, be increased by the Interest received beyond the rate of Interest payable to the Depositors, by the Rules and Regulations of such Savings Banks, or by any other means, the said Trustees or Managers, after deducting all such expenses as they may deem proper, shall, within *Six* Months after the *Twentieth* day of *November* in each Year, ascertain, certify and pay over to the said Commissioners the amount of such increased stock and property, reserving such portion as may appear necessary to meet current expenses; and the amount of such surplus, which shall be ascertained, certified and paid over (after such deduction as aforesaid), shall be discharged

Amount of Surplus to be discharged from Savings Bank Account.

Commissioners to keep separate Account of Surplus.

discharged from the account of such Savings Bank, standing in the books of the said Commissioners; and the said Commissioners shall keep a separate and distinct account of such surplus so discharged, from the account of the said Savings Banks respectively as aforesaid, and apply the same in such manner, and under such regulations from time to time, as any other monies under the provisions of this Act: Provided always, That it shall and may be lawful for the Trustees or Managers of the said respective Savings Banks to claim and receive of and from the said Commissioners (who are hereby required to pay the same upon such certificate as they may appoint) for the purposes of the institution, any sum of Money equal to the whole or any part of the principal Monies which may have been so discharged from the account of such Savings Banks as aforesaid.

Subject to claim of Trustees.

24.

Interest payable to Depositors not to exceed 2¼ *d.* per cent. per diem, i. e. 3*l.* 8*s.* 5¼ *d.* per cent. per annum.

And be it further Enacted, That the Interest payable to Depositors by the Trustees or Managers of any Savings Bank established under this Act, shall not exceed the rate of *Two-pence farthing* per centum per diem.

25.

Savings of Minors may be invested.

And be it further Enacted, That in case the Trustees or Managers of any such institution shall receive or shall have received any Deposit of Money from or for the benefit of any Person under the age of *Twenty-one* Years, it shall be lawful for the Trustees or Managers of such institution to pay such Person his or her share and interest in the funds of such institution, and the receipt of such Person shall be a sufficient discharge, notwithstanding his or her incapacity or disability in law to act for him or herself.

26.

Payment to married Women of Deposits made by them, when declared to be valid.

AND whereas Deposits in Savings Banks may have been made and may be made by married Women, without notice that they are married Women, and Deposits may have been made and may be made by Women who may have afterwards married; BE it further Enacted, That it shall be lawful for the Trustees in any Savings Bank to pay any sum of Money in respect of any such Deposit to any such Woman, unless the Husband of such Woman, or his representatives, shall give to such Trustees notice of such marriage, and shall require payment to be made to him or them.

27.

Charitable Societies may invest sums not exceeding 100*l.* per annum, nor exceeding 300*l.* in the whole.

And be it further Enacted, That it shall and may be lawful for the Trustees or Treasurers of any Charitable or Provident Institution or Society in Scotland, or Charitable Donation or Bequest, for the maintenance, education or benefit of the Poor, from time to time to subscribe any part of the Funds of such Institution or Society into the Funds of any Savings Banks, if the Trustees or Managers thereof shall be willing to receive the same, to the amount of *One hundred* Pounds per annum, provided the amount of the sum to be invested by such

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such Institution or Society shall not at any time exceed the sum of *Three hundred* Pounds in the whole, exclusive of Interest.

28.

Receipt of Treasurer, &c. of Friendly Society or Charitable Institution deemed sufficient discharge for same.

And be it further Enacted, That the receipt or discharge of the Treasurer, Trustee or other Officer of such Friendly Society, Charitable or Provident Institution or Society for the time being, for any Money paid by any Savings Bank according to the requisition of such Treasurer, Trustee or other Officer, apparently authorized to require such payment, shall be a sufficient discharge for the same; and the Savings Bank in which such Deposit shall be made shall not be responsible for any misapplication of any such money, donation or bequest, by the Person or Persons to whom the same shall be so paid, or for any want of authority of the Person or Persons requiring or receiving such payments.

Savings Bank not responsible for misapplication of such Money.

29.

Members of Friendly or Charitable Societies not liable to Forfeiture by subscribing to any Institution under this Act.

And be it further Enacted, That no Person who is or shall be a member of any Friendly Society established or to be established under and by virtue of any Act or Acts relating to Friendly Societies, or a member of any of the charitable institutions hereinbefore mentioned, shall, by reason of such Person being or becoming a Depositor in any institution taking the benefit of this Act, be considered as subject or liable to any penalty, forfeiture or disability declared or expressed, or intended so to be, by or in the rules, orders or regulations of such Friendly Society; any rules, orders or regulations of such Friendly Society made or hereafter to be made to the contrary notwithstanding: Provided also, That no Depositor shall be subject or liable to any Penalty or Forfeiture on account of his belonging to or being interested in the funds of any Friendly Society or Charitable Society deposited in any other Savings Bank.

30.

Provisions of 10 Geo. 4. c. 56, as to the power of Friendly Societies to deposit with Savings Banks, applied to Savings Banks established under this Act.

And be it further Enacted, That the clauses and provisions of an Act passed in the tenth year of his late Majesty's reign, intituled, "An Act to consolidate and amend the Laws relating to Friendly Societies," with respect to subscribing or depositing the funds of Friendly Societies in Savings Banks, shall be applicable to such Savings Banks as may be established under the provisions of this Act, in so far as the same can or may be applicable: Provided always, That it shall not be lawful for the said Trustees to receive any sum or sums from any Friendly Society, which may exceed the sum of *Three hundred* Pounds, principal and interest included, nor to pay any interest on the same whenever such sum or sums shall amount to or continue at the said sum of *Three hundred* Pounds or upwards.

Not exceeding 300*l.*

31.

No anonymous Subscriptions permitted.

And be it further Enacted, That no sum shall be paid or subscribed into any Savings Bank, by any Person or Persons, by ticket or number, or otherwise, without disclosing his or her name, together with his or

her profession, business, occupation, calling and residence, to the Trustees or Managers of such Savings Bank; and the Trustees or Managers of every Savings Bank are hereby required to cause the name of such Depositor, together with his or her profession, business or occupation, calling and residence, to be entered in the books of the institution.

Name of Depositor, with profession, &c. to be entered in Books of Savings Bank.

32.

Persons allowed to subscribe as Trustees on behalf of others, whether Trustees are themselves Depositors or not.

And be it further Enacted, That it shall and may be lawful for the Trustees or Managers of any Savings Bank to receive from any Person or Persons acting as Trustee or Trustees on behalf of any Depositor or Depositors, whether such Person or Persons is or are, himself or themselves, a Depositor or Depositors or not, any sum or sums not exceeding the annual amount hereinafter mentioned; provided that such Trustee or Trustees shall make such declaration on behalf of such Depositor or Depositors and subject to the like conditions, as by this Act is required in the case of any Person or Persons making any Deposit on his or her own account; and all Deposits made by any such Trustee or Trustees shall be inserted in the books of such Savings Bank in the joint names of such Trustee or Trustees, and of the Person or Persons on whose account such sum shall be so deposited; and the receipt and receipts of such Trustee or Trustees, or the survivor of them, or the executors or administrators of any sole Trustee or surviving Trustee, with or without the receipt of the Person or Persons on whose account such sum may have been deposited, shall be a good and valid discharge to the Trustees or Managers of the institution.

Deposits to be entered in joint names. Receipt of Trustee, &c. valid.

33.

Subscribers to one Savings Bank shall not subscribe to any other.

And be it further Enacted, That it shall not be lawful for any Person or Persons who shall have made any Deposit in, or any Subscription to, or who shall be entitled to any benefit from the Funds of any Savings Bank, to make any Deposit in, or to subscribe any Sum into the Funds of any other Savings Bank, or to open any new account in the said Savings Bank; and that every Person desirous of making any Deposit in, or any Subscription to any Savings Bank, shall, at the time of making the first Deposit in any Savings Bank, and at such other time or times as such Depositor shall be required so to do by the Trustees or Managers of any such Savings Bank, sign, either by themselves, or in case of infants under the age of *Seven* Years, by some Person to be approved of by the Trustees or Managers, or by such other Person as they shall appoint, a Declaration in such form as shall be directed or approved of by the Commissioners or other proper officer, that the Person or Persons on whose behalf any such first Deposit or Subscription shall be required to be made, is not or are not entitled to any Deposit or any such subsequent Deposit or Subscription in, or any benefit from, the Funds of any Savings Bank, other than that into which such Deposit or Subscription shall be made, or any other Funds in the said Savings Bank; and in case any such Declaration shall not be true, or if any Person shall at any time have or hold, or be possessed of

Declaration to be made at the time of Subscription.

Proviso in case of Infants under Seven Years.

Penalty on false Declaration.

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of any Deposit or Funds in more than one Savings Bank within the United Kingdom, every such Person shall forfeit and lose all right and title to any Deposit in or to any Funds of any and every such Savings Bank; and the Managers and Trustees of such Savings Banks shall and they are hereby required in such case to close the account of such Depositor, and to cause the sum or sums so forfeited to be forthwith paid into the Bank of England, to the account of the Commissioners standing in the books of the Governor and Company of the said Bank, under the title of "The Account of the Commissioners for applying certain sums of Money annually to the Reduction of the National Debt;" and the Cashier or Cashiers of the said Governor and Company is and are hereby required to receive all such Sums, and to place the same to the said account, to be applied in like manner as all other Money placed to the said account; and every such declaration so made shall be filed, and kept and preserved by the Trustees of every such Savings Bank; and a printed Notice of such regulation and prohibition shall be affixed in the office or place appointed for the receiving of Deposits to any Savings Bank, in such form as the said Commissioners, or their proper Officer, shall from time to time direct, or require or approve.

Forfeiture of Deposit to the Sinking Fund.

Declaration shall be filed.

Notice of such Regulation, &c. to be affixed in office.

34.

Deposits of any one Depositor shall not exceed 30 *l.* in any one year, nor beyond 150 *l.* in the whole.

And be it further Enacted, That it shall not be lawful for the Trustees of any Savings Bank established under this Act, to receive from any one present or future Depositor any sum or sums exceeding *Thirty* Pounds in the whole, exclusive of compound interest, in any one Year ending on the *Twentieth* day of *November*, nor to receive from any Depositor any sum or sums of Money whatever, which shall make the sum to which such Depositor shall be entitled exceed the sum of *One hundred and fifty* Pounds in the whole: Provided always, That whenever the sum or sums standing in the name of any Depositor shall amount in the whole to *Two hundred* Pounds, principal and interest included, that thenceforth no interest shall be payable on any such Deposit, so long as it shall continue to amount to the said sum of *Two hundred* Pounds.

When sum amounts to 200 *l.* no Interest payable.

35.

Not to affect Deposits of or above 200 *l.* at the passing of this Act.

And be it further Enacted, That nothing in this Act contained shall prevent, or be construed to prevent, the Trustees of any Savings Bank already established, which may hereafter conform to and be established under the provisions of this Act, from paying Interest to any Depositor whose Deposit shall or may amount to or exceed the sum of *Two hundred* Pounds, at the date of such Savings Bank conforming to the provisions of this Act.

36.

Trustees not to receive fresh Deposits from Persons whose Deposit amounts to 150 *l.*

Provided always, and be it further Enacted, That the said Trustees shall not receive from any such Depositor any fresh or additional Deposit, so long as the sum or sums to which such Depositor shall be

entitledshall amount to or exceed the sum of *One hundred and fifty* Pounds.

37.
Depositors may withdraw their Deposits, and again subscribe, provided the same does not in any one Year exceed 30 *l.*

And be it further Enacted, That no Money, whether such Money shall have been previously withdrawn from any Savings Bank or not, shall at any time be received by the Trustees or Managers from any Depositor which shall, in any one Year ending on the *Twentieth* day of *November*, exceed the sum of *Thirty* Pounds.

38.
Deposits may be withdrawn from one Savings Bank to be placed in another.

Provided always, and be it further Enacted, That at any time after the passing of this Act, it shall and may be lawful for any Depositor in any Savings Bank to withdraw from such Savings Bank the whole of his or her Deposits, and Interest thereon, at any one time (but not in parts or shares), for the purpose of investing the same in any other Savings Bank; and in such case it shall be lawful for the Trustees or Managers of any such Savings Bank from which such Deposit shall be intended to be withdrawn, or any One or more of them, and they are hereby required to grant to any such Depositor a Certificate under the hands of such One or more Trustee or Trustees, Manager or Managers respectively, attested by the Secretary or Actuary of such Savings Bank, and such Certificate shall state the whole amount of the Deposit, and Interest due to such Depositor in such Savings Bank, and shall be in such form as shall be directed or approved of by the Commissioners for the Reduction of the National Debt, or their Officer; and, upon the production of such Certificate, signed as hereinbefore directed to the Trustees or Managers of the Savings Bank into which such Deposit and Interest is intended to be removed, the Person applying shall, and he or she is hereby required to indorse his or her name on the back of such Certificate, in the presence of One or more of the Trustees or Managers of such Savings Bank, and such indorsement shall be attested by One of such Trustees or Managers; and if such Trustee or Trustees, or Manager or Managers, shall be satisfied that such Certificate is authentic, and that no abuse is intended thereby, it shall and may be lawful for the Trustees or Managers of such Savings Bank to receive the sum specified in such Certificate, and to place the same to the account of the Person therein described in the books of such Savings Bank, any thing in this Act to the contrary thereof notwithstanding: Provided always, That previous to such investment, a like declaration shall be made by the Person applying to make such Deposit, as is required in other cases of making Deposits in Savings Banks, according to the provisions contained in this Act, and such Person shall be considered in all respects as an original Subscriber to such Savings Bank, and shall be liable to all such rules, regulations and restrictions as an original Subscriber to such Bank.

Trustees may grant Certificate of amount due to Depositor,

who is to indorse his name on back of Certificate.

Previous to investment, Depositor to make Declaration.

39.
Depositor dying leaving sum exceeding 50 *l.* confirmation to be expede.

And be it further Enacted, That in case any Depositor in the funds of any institution taking the benefit of this Act shall die, leaving any sum

sum or sums of Money in the said Funds, or any dividends or interest due thereon, belonging to him or her at the time of his or her death, exceeding in the whole the sum of *Fifty* Pounds, the same shall not be paid to any Person or Persons as representative or representatives of such Depositor, without confirmation being obtained: Provided always, That where the whole estate or effects of any such deceased Depositor, for or in respect of which confirmation shall be obtained, shall not exceed the value of *Fifty* Pounds, no Stamp Duty shall be chargeable in obtaining the same, nor upon any inventory or document leading to or connected with the same, nor upon any legacy or residue or part thereof bequeathed, nor upon any share or part of the estate or effects to be paid or distributed by or under such confirmation: Provided also, That in every such case, the Person or Persons obtaining such confirmation free from Stamp Duty under this Act, shall exhibit to the Court or Person having authority to grant confirmation in such case, a Certificate of the amount and value of the share and interest which the deceased Depositor had in the funds of the said institution, which Certificate shall be granted in such form and manner as shall have been settled by the Rules or Regulations of the institutions respectively, and shall be signed or testified by such Person or Persons as shall be directed therein; and every such Certificate shall be taken and received by the Court or Person having authority to grant confirmation as evidence of the amount and value of the shares and interests of the deceased Depositor in the funds of the said institution.

Whole estate, &c. of Depositor not exceeding 50 *l.*, no Stamp Duty chargeable.

Certificate of amount and value of Depositor's Interest to be produced.

40.

And be it further Enacted, That in case any Depositor in the funds of any such institution shall die, leaving a sum of Money in the said fund, which, with the interest thereon, shall not exceed in the whole *Fifty* Pounds, it shall be lawful for the Trustees or Managers of such institution, and they are hereby authorized and permitted, in case such Trustees or Managers shall be satisfied that no Will, or other testamentary or mortis causa deed, was made and left by such deceased Depositor, and that no confirmation will be expede of the estate and effects of such Depositor, to pay the same at any time after the decease of such Depositor, according to the Rules and Regulations of the said institution; and in the event of there being no Rules and Regulations made in that behalf, then the said Trustees or Managers are hereby authorized and permitted to pay and divide the same to and amongst the Person or Persons who may appear to them to be entitled to the effects of the deceased intestate.

Where the Effects of Person dying intestate shall not exceed 50 *l.* the same may be divided according to the Rules of the Institution, &c.

In the event of no Rules, &c. then according to law.

41.

And be it further Enacted, That whenever any Trustees or Managers of any Savings Bank, at any time after the decease of any Depositor, have paid and divided any sum of Money not exceeding *Fifty* Pounds, to or amongst any Person or Persons who shall at the time

Payment to Persons appearing to be next of kin, declared valid.

time of such payment appear to such Trustees or Managers to be entitled to the effects of any deceased intestate Depositor, according to the law of Scotland, or according to the Rules and Regulations of any such Savings Banks, the payment of any such sum or sums of Money shall be valid and effectual with respect to any demand of any other Person or Persons as next of kin of such deceased intestate Depositor, or as the lawful representative or representatives of such Depositor, against the funds of such Savings Bank, or against the Treasurer or Trustees or Managers thereof; but nevertheless such next of kin or representatives shall have remedy for such Money so paid as aforesaid against the Person or Persons who shall have received the same.

Remedy against Party who received Money.

42.

Payments under confirmation shall be valid.

And be it further Enacted, That payment of any Money by any such institution as aforesaid, to any Person or Persons having obtained confirmation as aforesaid, granted by any Court, and appearing to be in force, shall be valid and effectual with respect to any demand of any other Person or Persons, as the lawful representative or representatives of such Depositor against the funds of such institution, or against the Treasurer, Trustees or Managers thereof; but nevertheless such lawful representative or representatives shall have remedy for such Money or securities for Money so paid or transferred as aforesaid against the Person or Persons who shall have received the same.

43.

Powers of Attorney, &c. given by Trustees or Depositors not liable to Stamp Duty.

And be it further Enacted, That no Power, Warrant or Letter of Attorney, granted or to be granted by any Person or Persons, or Trustee or Trustees of any institution established under this Act, nor any Power, Warrant or Letter of Attorney given by any Depositor or Depositors in the funds of such institution, to any other Person or Persons, authorizing him, her or them to make any Deposit or Deposits of any sum or sums of Money in the said Funds on behalf of the said Depositor or Depositors, or to sign any document or instrument required by the Rules or Regulations of such institution, to be signed on making such Deposits, or to receive back any sum or sums of Money deposited in the said funds, or the dividends or interests arising therefrom, nor any receipt nor any entry in any book of receipt for Money deposited in the funds of any such institution, nor for any Money received by any Depositor, his or her executors, assigns or attornies, from the funds of such institution, nor any draft or order, nor any appointment of any agent or agents, nor any certificate or other instrument for the revocation of any such appointment, nor any heritable bond or instrument of sasine, or other deeds constituting securities for Money, or other obligatory instruments belonging to or granted for or in respect of any such institution, nor any proceedings in any action or cause touching or concerning the property,

No Draft, Order, or Appointment of Agent, &c. liable to Stamp Duty.

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property, rights or claims of any such institution, nor any advertisement in any newspaper relative to any such institution, nor any other instrument or document whatever, required or authorized to be given, issued, signed, made or produced in pursuance of this Act, shall be subject or liable to or charged with any Stamp Duty or Duties whatsoever.

44.

Where disputes arise, same to be referred to Arbitrators; and in case of their not agreeing, to be settled by Advocate.

And be it further Enacted, That if any dispute shall arise between any such institution, or any Person or Persons acting under them, and any individual Depositor therein, or any executor, next of kin, or creditor of any deceased Depositor, or any Person claiming to be such executor, next of kin, or creditor, then, and in every such case, the matter so in dispute shall be referred to the arbitration of *Two* indifferent Persons, One to be chosen and appointed by the Trustees or Managers of such institution, and the other by the Party with whom the dispute arose; and in case the Arbitrators so appointed shall not agree, then such matter in dispute shall be referred in writing to the Advocate, so to be appointed by the said Commissioners as aforesaid, who shall receive a fee of not more than *One* Guinea; and whatever award, order or determination shall be made by the said Arbitrators, or by the said Advocate, shall be binding and conclusive on all Parties, and shall be final to all intents and purposes, without any appeal, and no suspension, advocation or reduction shall be competent; and the said award, order or determination shall declare by whom the said fee payable to the said Advocate shall be paid; and no submission to, or award, order or determination of the said Arbitrators, or of the said Advocate, shall be subject or liable to or charged with any Stamp Duty or Duties whatever.

Award, &c. to be final.

Submission, &c. not liable to Stamp Duty

45.

Savings Banks shall make up annual Accounts of their progress, stating the Balance, and in whose hands, and transmit such Accounts to the Commissioners for the Reduction of the National Debt.

AND for the more effectually ascertaining from time to time the actual and progressive state of the several Savings Banks respectively, BE it Enacted, That the Trustees or Managers of any Savings Banks shall annually cause a general Statement of the Funds of such Savings Bank to be prepared up to the *Twentieth* day of *November* in each Year, showing in what manner the funds shall be then invested, the balance or principal sum due to all the Depositors collectively in such Savings Bank, and a Statement of the Expenses incurred, and stating in whose hands such balance shall then be remaining; and every such annual Statement shall be attested by *Two* Managers or *Two* Trustees, or by *One* Manager and *One* Trustee of such Savings Bank; and every such annual Statement shall be countersigned by the Secretary or Actuary of such Savings Bank; and all such annual Statements shall be transmitted to the office of the said Commissioners for the Reduction of the National Debt in London, within Six Weeks next after the *Twentieth* day of *November* in each year; and in case the Trustees of any such Savings Bank shall neglect or refuse to make out and

If Trustees of Savings Banks neglect to deliver such Returns, or to obey Orders of

Commissioners, Commissioners may close their Accounts, &c.

and transmit such Account as aforesaid, or in case any such Trustees shall at any time neglect or refuse to obey any orders or directions given by the said Commissioners, or through their Officer, pursuant to the directions of this Act, it shall and may be lawful for the said Commissioners to close the account of the Trustees of such Savings Bank, and to discontinue the keeping any further account with the Trustees of such Savings Bank, and to direct that no further sum shall be received at the Bank of England from the Trustees of such Savings Bank, to the account of the said Commissioners, until such time as such Commissioners shall think fit: Provided always, That it may be lawful for the said Commissioners to re-open such account, and to allow the growing Interest of such account during the time of such discontinuance, and to authorize the receipt of Money at the Bank of England whenever such Commissioners shall think fit to do so, upon such Trustees complying with the directions of such Commissioners or their Officer.

Accounts may be re-opened.

46.

A Duplicate of such Account shall be affixed in the office of the Savings Bank.

And be it further Enacted, That the Trustees or Managers of every such Savings Bank shall cause a Duplicate of every such annual Statement, accompanied by a List of the Trustees and Managers of such institution for the time being, attested and countersigned as aforesaid, to be publicly affixed and exhibited in some conspicuous part of the office or place where the Deposits of such Savings Bank are usually received, for the information of all Persons making Deposits therein, and every such Duplicate shall from time to time remain so affixed and exhibited until the ensuing annual Statement shall, in like manner, be affixed and exhibited as aforesaid; and every Depositor shall be entitled to receive from the said institution a printed copy of such annual Statement on payment of *One* Penny.

47.

Accounts shall be annually laid before Parliament, by Commissioners for the Reduction of the National Debt, of gross Amount of all Sums received and credited, &c.

And be it further Enacted, That from and after the *passing of this Act* the following Accounts shall be prepared by the said Commissioners, and shall be annually laid before both Houses of Parliament, on or before the *Twenty-fifth* day of *March* in every year, if Parliament shall be sitting, and if Parliament shall not be sitting, then within *Fourteen* Days after the commencement of the then next Session of Parliament; that is to say, Accounts made up to the *Twentieth* day of *November* then next preceding, of the gross amount of all sums received and credited, including interest, and of all sums paid, including interest, from the *passing of this Act*, up to such *Twentieth* day of *November*, by the said Commissioners on account of the Trustees of the several Savings Banks in Scotland; and also from the

up to such *Twentieth* day of *November*, on account of any Friendly Societies in Scotland respectively, and of the gross amount of all Sums, Stock, Funds, Annuities and Exchequer Bills standing in the

names

names of such Commissioners on the *Twentieth* day of *November*, on account of any such Savings Banks or Friendly Societies respectively, and the sums paid for the purchase of such Stocks, Funds or Exchequer Bills, and the gross amount of the interest or dividends received thereon by the said Commissioners, and the gross amount of the interest paid by such Commissioners up to such *Twentieth* day of *November*, on all receipts issued to the Trustees of any such Savings Bank or Friendly Societies in Scotland respectively; and also an Account of all expenses incurred by the said Commissioners for salaries of clerks, or other incidental charges during the preceding year.

An Account of all expenses incurred by Commissioners.

48.
Savings Banks shall compute Interest to 20th May and 20th November, half yearly or yearly.

AND for the purpose of rendering the Accounts of the several Savings Banks in Scotland uniform and correspondent with the Accounts of the Commissioners for the Reduction of the National Debt, BE it Enacted, That the interest or dividends due to each Depositor in each Savings Bank in Scotland, shall be computed half-yearly to the *Twentieth* day of *May* and *Twentieth* day of *November*, or yearly to the *Twentieth* day of *November* in each year, or up to such period nearest to such *Twentieth* day of *May* or *Twentieth* day of *November*, as such Interest shall be payable, according to the Rules or Regulations of such Savings Banks respectively, and to no other periods.

49.
Commissioners may purchase Exchequer Bills.

And be it further Enacted, That all the clauses and provisions of the said Act of the ninth year of his late Majesty, intituled, "An Act to consolidate and amend the Laws relating to Savings Banks," with respect to the purchasing of Exchequer Bills by the said Commissioners, and the regulations concerning the same, shall be applicable to this Act, and to the Monies paid into the Bank of England under the authority of this Act, as if the same had been repeated herein, in so far as the same can or may be applicable.

50.
Annuities may be purchased through Savings Banks.

And be it further Enacted, That all the clauses and provisions of an Act passed in the third year of the reign of His present Majesty, intituled, "An Act to enable Depositors in Savings Banks and others to purchase Government Annuities through the medium of the Savings Banks, and to amend an Act of the ninth year of his late Majesty, to consolidate and amend the Laws relating to Savings Banks," with respect to purchasing Annuities through Savings Banks, and the regulations concerning the same, shall be applicable to such Savings Banks as may be established under the provisions of this Act, in so far as the same can or may be applicable.

51.
Executors, &c. of Officers to pay Money due to Savings Banks before other Debts.

And be it further Enacted, That if any Person who may hereafter be appointed to any office in a Savings Bank established under this Act, and being intrusted with the keeping of the accounts, or having in

his hands or possession, by virtue of his said office or employment, any monies or effects belonging to such Savings Bank, or any deeds or securities relating to the same, shall die or become a bankrupt or insolvent, or have any action or diligence raised against his property or estate, heritable or moveable, or make any disposition or assignation or other conveyance thereof for the benefit of his creditors, his heirs, executors or assignees, or other persons having legal right, or the party using or executing such action or diligence, shall, within *Forty* Days after demand made in writing by *Two* of the Trustees of the said Savings Bank as aforesaid, deliver and pay over all Monies and other things belonging to such Savings Bank, to such Person as the said Trustees shall appoint, and shall pay out of the estates or effects, heritable or moveable, of such Person, all sums of Money remaining due, which such Person received by virtue of his said office or employment, before any other of his debts, heritable or moveable, are paid or satisfied, or before the Money which may be recovered or recoverable under such diligence is paid over to the party using such diligence, and all such lands, goods, property, estates and effects shall be bound to the payment and discharge thereof accordingly.

52. If annual Returns not made, name of Savings Bank to be published.

And be it further Enacted, That if the annual Statements directed by this Act to be prepared and transmitted by the Trustees of a Savings Bank shall not be prepared and transmitted to the Commissioners for the Reduction of the National Debt within the time limited by this Act, it shall and may be lawful for the said Commissioners, or for the Comptroller-General, or Assistant Comptroller, acting under the said Commissioners, and they and he is and are hereby severally required forthwith to publish in the Edinburgh Gazette, and also in any newspapers published in the county in which the Savings Bank is established, if any such there be, or if not, then in any newspapers published in the nearest adjoining county or counties, the name of every such Savings Bank so neglecting or making default in transmitting such annual Statement as aforesaid, in such form and words for the information of the Depositors, and under such regulations as the said Commissioners, or the said Comptroller-General, or Assistant Comptroller, shall from time to time think fit.

53. Statement of Expenses may be required from Trustees or Managers.

And be it further Enacted, That it shall and may be lawful for the said Commissioners, or the Comptroller-General, or Assistant Comptroller, acting under the said Commissioners, if they or he shall think fit, to require from time to time of and from the Trustees or Managers of any Savings Bank a detailed Statement of all the Expenses whatever incurred by the said Trustees or Managers in the management or otherwise of the said Savings Bank.

54. When Money is in the hands of a Treasurer or other Person, his Certificate to accompany the annual Statement.

And be it further Enacted, That whenever it shall appear in any annual Statement, that any sum of Money of or belonging to a Savings Bank

Bank is in the hands of any Treasurer or other Person or Persons, the said annual Statement shall be accompanied with a certificate or doquet signed by such Treasurer or other Person or Persons that the sum of Money therein mentioned is in his or their possession: Provided, That where such sum of Money shall be invested in any of the Banks hereinbefore mentioned, such certificate or doquet shall be signed by any of the Officers of such Bank who may be in use to grant receipts for money deposited therein; and where such sum of Money shall be invested on heritable securities, such certificate or doquet shall be signed by the Party to whom the Money is so lent, or by such Party's known Agent.

55.
Receipts, &c. shall be in forms directed or approved by Commissioners for Reduction of the National Debt.

And be it further Enacted, That all receipts, orders, certificates, indorsements, accounts, returns or instruments, or other matters or things whatsoever which shall be required for carrying into execution this Act, shall be made in such form and manner, and containing such particulars, and under such regulations, as shall from time to time be directed or required or approved of by the said Commissioners, or their Officer or Officers.

56.
Indemnity to Commissioners for Reduction of the National Debt, and the Governor and Company of the Bank of England.

And be it further Enacted, That this Act shall be and the same is declared to be, a full and sufficient indemnity and discharge to the Commissioners for the Reduction of the National Debt, and to the Governor and Company of the Bank of England and their Officers, for all things to be done, or required or permitted to be done, pursuant to this Act.

57.
Commissioners may employ Clerks, &c.

And be it further Enacted, That it shall and may be lawful for the said Commissioners for the Reduction of the National Debt, and they are hereby authorized and empowered to appoint a Member of the Faculty of Advocates of Scotland, and employ such and so many of the Clerks and other Officers as shall be necessary for carrying into execution the purposes of this Act; and that it shall and may be lawful for the Lord High Treasurer, or the Commissioners of His Majesty's Treasury of the United Kingdom of Great Britain and Ireland for the time being, and they are hereby authorized and empowered to settle and appoint such allowances as shall be proper for the services, pains and labour of such Clerks or other Persons to be appointed and employed by the said Commissioners, in manner and for the purposes aforesaid, and out of the fund upon which the establishment of the said Commissioners is chargeable by any Act now in force, to pay and discharge all such allowances, and all other incidental charges, which shall necessarily attend the execution of this Act, in such manner as to them shall seem just and reasonable.

Treasury may pay them, and discharge incidental Expenses.

58.
Existing Banks may conform to this Act.

And be it further Enacted, That it shall be competent to the Trustees, Managers or Directors, or other Persons legally intrusted with the

management of any Savings Bank already established in Scotland under the authority of the Act hereby repealed, or to the major part of them assembled at any General Meeting, to be convened according to the respective Rules and Regulations of such Savings Banks, to establish such Savings Banks under this Act, by preparing, enrolling and depositing the Rules and Regulations thereof, in conformity to law and with the provisions of this Act, and such Savings Bank shall thereafter be deemed and taken to be established under the provisions of this Act to all intents and purposes.

59. Public Act to extend to Scotland.

And be it further Enacted, That this Act shall extend to all Savings Banks hereafter to be established in Scotland, and also to all Savings Banks already established in Scotland, as soon as they shall have been established under the provisions thereof, and be deemed a Public Act; and be judicially taken notice of as such, by all Judges, Justices and other Persons whomsoever, without the same being specially shown or pleaded.

5 WILL. IV.—Sess. 1835.

A

B I L L

To extend to Scotland certain Provisions of an Act of the Ninth Year of his late Majesty, to consolidate and amend the Laws relating to Savings Banks, and to consolidate and amend the Laws relating to Savings Banks in Scotland.

(Prepared and brought in by Mr. Murray and Mr. Stuart Mackenzie.)

Ordered, by The House of Commons, *to be Printed,* 5 *June* 1835.

273.

1 *July* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To extend to *Scotland* certain Provisions of an Act of the Ninth Year of his late Majesty, to consolidate and amend the Laws relating to Savings Banks; and to consolidate and amend the Laws relating to Savings Banks in *Scotland*.

[N. B.—*The Clauses marked* (A.) *and* (B.) *were added by the Committee.*]

Preamble.

WHEREAS it is expedient to repeal the Law relative to Savings Banks in *Scotland*, and to make other Provisions respecting Savings Banks in *Scotland*; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT an Act passed in the fifty-ninth year of the reign of King GEORGE the Third, intituled, "An Act for the Protection of Banks for Savings in *Scotland*," shall be and the same is hereby Repealed: Provided nevertheless, That such Repeal shall not invalidate or affect any thing which has been done before the passing of this Act in pursuance of the said Act.

1. Repeal of 59 Geo. 3. c. 62.

Not to invalidate proceedings under the Act.

2. CLAUSE (A.) Provisions of 9 G. 4. c. 92, & 3 W. 4. c 14. extended to Scotland.

And be it further Enacted, That all the clauses and provisions of a certain Act made and passed in the ninth year of the reign of his late Majesty, intituled, "An Act to consolidate and amend the Laws relating to Savings Banks;" and also of a certain other Act made and passed in the third year of the reign of His present Majesty, intituled,

" An Act to enable Depositors in Savings Banks and others to purchase Government Annuities through the medium of Savings Banks, and to amend an Act of the ninth year of his late Majesty, to consolidate and amend the Laws relating to Savings Banks," shall from and after the passing of this Act extend to *Scotland*.

3. CLAUSE (B.) Provisions of 59 G. 3. c. 62, to continue in force until, &c.

And be it further Enacted, That the provisions of the said Act passed in the fifty-ninth year of the reign of King GEORGE the Third, shall continue in force as to all Savings Banks established under it before the passing of this Act, unless and until they shall conform to and be established under the provisions of the said Acts of the ninth year of his late Majesty, and the third year of His present Majesty.

4. Existing Banks may conform to this Act.

And be it further Enacted, That it shall be competent to the Trustees, Managers or Directors, or other Persons legally intrusted with the management of any Savings Bank already established in *Scotland* under the authority of the Act hereby repealed, or to the major part of them assembled at any General Meeting, to be convened according to the respective Rules and Regulations of such Savings Banks, to establish such Savings Banks under the said last-mentioned Acts, by preparing, enrolling and depositing the Rules and Regulations thereof, in conformity to law and with the provisions of the said last-mentioned Acts, and such Savings Bank shall thereafter be deemed and taken to be established under the provisions of the said last-mentioned Acts to all intents and purposes.

5. Public Act to extend to Scotland.

And be it further Enacted, That this Act shall extend to all Savings Banks hereafter to be established in *Scotland*, and also to all Savings Banks already established in *Scotland*, as soon as they shall have been established under the provisions thereof, and be deemed a Public Act; and be judicially taken notice of as such by all Judges, Justices and other Persons whomsoever, without the same being specially shown or pleaded.

6 WILL. IV.—Sess. 1835.

A

BILL

[AS AMENDED BY THE COMMITTEE]

To extend to *Scotland* certain Provisions of an Act of the Ninth Year of his late Majesty, to consolidate and amend the Laws relating to Savings Banks; and to consolidate and amend the Laws relating to Savings Banks in *Scotland*.

(Prepared and brought in by
Mr. Murray and Mr. Stuart Mackenzie.)

Ordered, by The House of Commons, *to be Printed*,
1 *July* 1835.

9 *March* 1835.

A

B I L L

For making certain Alterations and Reductions in the Establishment of Clerks and Officers attached to the Court of Session in Scotland, and to diminish the Expense of Judicial Procedure in that Court.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS the number of Officers attached to the Court of Session in Scotland, and the Fees or Emoluments paid to them were at first fixed by usage, or by Acts of Sederunt of that Court: Preamble.

And whereas by an Act passed in the fiftieth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for abridging the form of extracting Decrees of the Court of Session in Scotland, and for the Regulation of certain parts of the Proceedings of that Court," a Fee Fund was established, and the Dues of Court, or the Fees and Emoluments of the Clerks and other Officers were partially regulated: 50 Geo. 3, c. 112.

And whereas by an Act passed in fifty-fifth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act to facilitate the Administration of Justice in that part of the United Kingdom called Scotland, by the extending Trial by Jury to Civil Causes," a considerable addition was made to the Judicial Establishment in Scotland, and payments appointed to be made in the form of Salaries out of the Duties and Revenues of Scotland, which by the several Acts in the seventh and tenth years of the reign of Queen ANNE were made chargeable with the Fees, Salaries and other Charges allowed or to be allowed by her Majesty, her heirs and successors, for keeping up the Courts of Session, Justiciary and Exchequer in Scotland: 55 Geo. 3, c. 42.

And whereas by another Act passed in the fifty-fifth year of the reign of his said Majesty King GEORGE the Third, intituled, "An Act for better regulating the Formation and Arrangement of the Judicial and other Records of the Courts of Session in Scotland," an alteration and reduction was made in the number of Officers and Keepers of the Records, and an alteration made in the mode of appointment of these Officers:

And whereas by an Act passed in the fifty-ninth year of the reign of his said Majesty King GEORGE the Third, intituled, "An Act to amend an Act passed in the fifty-fifth year of the reign of his present Majesty, intituled, 'An Act to facilitate the Administration of Justice in that part of the United Kingdom called Scotland, by extending Trial by Jury to Civil Causes,'" an addition was made to the Officers of the said Jury Court, and certain Fees authorized to be paid:

And whereas by an Act passed in the first and second years of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for establishing Regulations respecting certain parts of the Proceedings in the Court of Session, and in the Court of Commissioners for Teinds, and respecting the Duties, Qualifications and Emoluments of certain Clerks and other Officers of the said Courts, various alterations were made, and the appointment of new Officers authorized, and payments by Salaries to them and other Officers directed to be made:

And whereas by an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better regulating of the Forms of Process in the Courts of Law in Scotland," extensive alterations were made in the Forms of Procedure, and Compensation out of the said Revenues of Scotland was authorized to be made to Clerks or Officers affected thereby, and a new form of citation and charge and intimation against defenders furth of the kingdom being introduced, and a record thereof established, the Court of Session was authorized to fix an allowance for the trouble and expense thereby imposed on the Keeper of the Record, to be paid to him from the said Fee Fund:

And whereas by an Act passed in the first year of the reign of His present Majesty King WILLIAM the Fourth, intituled, "An Act for uniting the benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other alterations and reductions in the Judicial Establishments of Scotland," provision was made for reducing the number of Clerks of Court, both Principal and Depute Clerks of Session; and the appointment of Depute Clerks and Assistant Clerks of Session was vested in His Majesty, and compensation was appointed to be made to Clerks and others suffering loss by the regulations introduced by that Act:

And

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And whereas by an Act passed in the third year of the reign of His present Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the execution of the Duties performed by the Barons of Exchequer in Scotland, in relation to the Public Revenue, and to place the Management of the Assessed Taxes and Land Tax in Scotland under the Commissioners for the Affairs of Taxes," various powers and duties formerly exercised by the Court of Exchequer in Scotland were transferred to the Commissioners of His Majesty's Treasury for the time being, or any three of them, whereby the powers of fixing and paying the compensations and payments authorized to be fixed or made from the Duties and Revenues of Scotland aforesaid, is transferred to the said Commissioners:

And whereas His present Majesty, by Commission bearing date the sixth day of June One thousand eight hundred and Thirty-three, directed Letters Patent to be forthwith made and passed under the Seal appointed by the Treaty of Union, to be kept and made use of in place of the Great Seal of Scotland, directing certain persons therein named to make a diligent and faithful inquiry into various matters relative to the Law and Administration of Justice in Scotland, and in particular "as to the Fees now exigible from Suitors in the Court of Session in Scotland, and the practicability of diminishing the same, by reducing the establishment of Clerks and other Officers now receiving such Fees or otherwise:"

And whereas the Commissioners so appointed have made a First Report to His Majesty, which has been laid before Parliament:

And whereas in order to diminish the expense of the Administration of Justice, and to improve the arrangements and duties of the Officers of the Court of Session in Scotland, it is expedient that certain new Regulations should be adopted, together with a farther reduction of the number of the Officers of the said Court according as they are or may be removed by death or otherwise, and that the Clerks or other Officers should derive their remuneration or emolument from salaries of a fixed amount, and that it is therefore necessary in some respects to alter or amend the aforesaid Statutes:

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT instead of Four Principal Clerks of the said Court of Session, and Four Principal Clerks connected with proceedings in Trials by Jury, the number of Principal Clerks shall be reduced as vacancies occur to Four in all, who in addition to the duties heretofore discharged to the Principal Clerks of Session, shall perform all duties belonging to the Principal Clerks connected with Trials by Jury; as also on the death or removal of the present Clerks of the Bills, they shall discharge

1. Principal Clerks of Session.

discharge the duties of such Clerks in all Bill Chamber proceedings which may take place in the Inner House of the Court of Session.

2. Vacancies of Principal Clerks not to be filled up.

And be it further Enacted, That in order to carry the said reduction of the number of such Clerks into effect, the vacancies which may occur in the Principal Clerks connected with Trial by Jury shall not be filled up.

3. Court of Session to regulate Duties.

And be it further Enacted, That after such reduction in the number of Principal Clerks shall be completed, and also during the progress thereof, the Court of Session shall and are hereby empowered from time to time to make such regulations by Act of Sederunt as it may deem expedient, for duly distributing and regulating the duties to be performed by the several Principal Clerks respectively, and which regulations such Clerks shall respectively be bound to observe.

4. Duties and Salaries of Inner House Clerks, &c.

And be it further Enacted, That in case of absence from necessary cause of any Principal Clerk of Session, his duty shall be discharged by his Assistant, instead of the Depute Clerk, as at present; and after the termination of the existing interests no payment shall be made to any Principal or Assistant Clerk of Session, as Clerk to King's Processes; and so much of the before-recited Act, passed in the first and second years of the reign of King GEORGE the Fourth as provides, that in the event of a Principal Clerk of Session being appointed one of the Principal Clerks of the Bills, he shall receive an additional salary of Three thousand pounds per annum, shall be, and the same is hereby repealed.

5. Assistant Clerks in the Inner House.

And be it further Enacted, That instead of Six Assistant Clerks of Session in the Inner House, these Assistant Clerks shall, as vacancies occur, be reduced to *Four* in number, and the Assistant Clerks thereafter to be employed, shall be appointed each by the Principal Clerk to whom he is to be assistant; and no successors shall be appointed to the present Assistant Clerks connected with Jury cases.

6. Duties.

And be it further Enacted. That the Assistant Clerks in the Inner House shall, on the death or removal of the present Clerks of the Bill Chamber, in addition to their other duties, take charge of all Bill Chamber cases brought into the Inner House, and shall in like manner take charge of all Jury cases on the death or removal of the Assistant Clerks connected with that department, in such manner as the Court of Session shall regulate.

7. Salaries.

And be it further Enacted, That the Assistant Clerks in the Inner House, instead of being paid exclusively by fees, shall from and after the *passing of this Act* receive a fixed salary of Two hundred Pounds each

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each; and for their further remuneration the sum of Four hundred Pounds shall annually be raised by a fee on the lending of Inner House Processes, which sum shall be divided among the said Four Assistant Clerks in proportions corresponding to the amount of such fee from the processes levied under charge of such Clerks respectively; and it shall be the duty of the Court of Session, and such Court is hereby empowered and required to fix the rate of such fee from time to time so as to produce as nearly as may be the said sum of Four hundred Pounds and to cause the same to be levied and duly accounted for and paid, and it is thereby provided that any excess which may unavoidably ensue, shall be paid over to the Collector of the Fee Fund, for the purposes of this fund.

8. Depute Clerks in the Outer House.

And be it Enacted, That instead of Six Depute Clerks of Session in the Outer House, and Six Assistant Clerks, the number shall, as vacancies occur, be reduced to *Five* Depute, and under the exception after-mentioned to *Five* Assistant Clerks, each Assistant to be hereafter appointed by the particular Depute Clerk to whom he is to be Assistant; and in addition to the duties at present performed by them, the Assistant Clerks shall take charge of all processes connected with Trial by Jury, on the death or removal of the present Assistants in that department; and farther, the Depute Clerks shall attend in rotation the Trials at Circuit, on the removal or death of the present Jury Clerks, each of the said Depute Clerks so attending receiving the same allowance for the expenses of each Circuit, which is at present granted to a Jury Clerk; and it is further provided, that instead of the present practice, a Depute and Assistant Clerk shall attend at the Bar of each Lord Ordinary in the Outer House, and that the senior Depute Clerk shall be attached to the junior Lord Ordinary, and shall have the benefit of *Two* Assistants, and *Two* separate offices, the one office, under the charge of one Assistant, being devoted to the business of the Court of Session, and the other office, under the charge of the other Assistant, being devoted to the business of the Bill Chamber: Provided always, That in the event of inequality of business depending before a particular Lord Ordinary, the Lord President of each Division, on special application, is hereby empowered to require the Clerks, either Depute or Assistant, to officiate before any Judge or Judges; and the same proceeding shall take place in the case of the necessary absence of a Depute or Assistant Clerk.

9. Salaries.

And be it further Enacted, That the remuneration of the Assistant Clerks employed in the business of the Outer House, and not of the Bill Chamber, instead of depending, as at present, wholly upon fees, shall, from and after the *passing of this Act*, consist of a fixed salary of Two hundred Pounds each; for their further remuneration, the sum of Five hundred Pounds shall be annually raised by a fee upon the

lending of Outer House processes; and the same rules shall apply to the fixing the vote of such fee, and to the levying, accounting for and paying the same, as hereinbefore provided for the similar fee payable to the Assistant Clerks of the Inner House: And it is further provided, that an account showing the amount received from both of these fees, and the application, shall be annually transmitted to the Keeper of His Majesty's Signet, and to the president of the Solicitors practising before the Supreme Courts.

10. Salaries, &c.

And be it further Enacted, That the Depute Clerk employed to transact the business of the Bill Chamber shall, under the Principal Clerks of Session, have the whole charge of that department, and shall be responsible for cautioners and consigned money, as at present; and the remuneration of the said Depute shall consist of a salary of *Five hundred Pounds* per annum, and the emoluments of the Assistant Clerk of the Bill Chamber shall consist of a fixed salary of *Three hundred Pounds* per annum; and the said Depute and Assistant are hereby prohibited to charge any fees, except for copying bills of suspension and other pleadings, for which an allowance shall be paid at the ordinary rate paid to clerks for copying and stationery in the Court of Session, all other fees hitherto paid in the Bill Chamber being hereby abolished, including the fees on consigned money, and interest during the period of consignation.

11. Judges' Clerks.

And be it further Enacted, That *One hundred Pounds* per annum shall be withdrawn from the salaries of each of the Judges' Clerks and Keepers of the Inner and Outer House Rolls, to be appointed after the death or removal of the present incumbents, as also the sum hitherto set apart for providing a superannuation allowance for the said Clerks.

12. Extractors.

And be it further Enacted, That instead of the duty of extracting the Decrees of the Court of Session being performed by Four Extractors and Eight Engrossing Clerks, nominated by the Principal Clerks of Session during pleasure, the duty of preparing Extracts shall from and after the *passing of this Act* be entrusted to *One* Principal Extractor, to be appointed by His Majesty, His heirs and successors, which Principal Extractor shall perform the duties of the office in person, with the aid of *One* Assistant, nominated by him, and holding an appointment at pleasure under him, and for whom he is to be responsible, and who, in the event of absence from necessary cause of the Principal Extractor, shall be empowered to subscribe and authenticate the Extracts; and with the farther aid of such Engrossing Clerks as he the Principal Extractor from time to time shall think fit to appoint.

13. Salaries.

And be it further Enacted, That the Principal and Assistant Extractors shall be paid wholly by salaries; that of the Principal to be *Six hundred Pounds* per annum, and that of the Assistant to be *Three hundred*

hundred Pounds per annum, and the Engrossing Clerks shall be paid at the rate usually paid to clerks for the manual operation of copying, adding thereto the price of stationery; and it shall be held illegal, and an act of malversation in office for the Principal or Assistant Extractor to participate in these profits.

14. Keeper of the Records.

And be it further Enacted, That when a vacancy shall occur, the office of Keeper of the Records, established by the before recited Act passed in the fifty-fifth year of the reign of His Majesty King GEORGE the Third, it shall not be competent to appoint a Successor to the said present Keeper; and the duties of the office shall be performed by the principal Extractor and his Assistant, with the aid of a Clerk, who shall receive a salary of *One hundred Pounds* per annum.

15. Keeper of the Minute Book.

And be it further Enacted, That when a vacancy shall occur in the office of Keeper of the Minute Book, and of the Keeper of the Record of Edictal Citations, one officer shall perform the duties of both offices; and these duties shall be performed by the holder of the office in person, he receiving a fixed salary of *Three hundred Pounds* per annum, and of *One hundred and thirty Pounds* for a Clerk, in lieu of all fees or perquisites.

16. Minute Book, how to be Printed.

And be it further Enacted, That from and after the date of this Act, the Minute Book of the Court of Session shall be printed by the Keeper thereof, the expense of such printing to be paid to him from the Fee Fund to such amount as to the said Court shall seem reasonable.

17. Collector and Accountant of the Fee Fund.

And be it further Enacted, That the Collector of the Fee Fund shall be paid as at present, but his emoluments shall not exceed *Six hundred Pounds* per annum; and the Salary of the Accountant of the Fee Fund, instead of *Two hundred Pounds* per annum, as at present, shall be limited to *One hundred Pounds*.

18. Auditor.

And be it further Enacted, That from and after the *passing of this Act*, it shall not be lawful for the Auditor of Accounts of the Court of Session to make any charge for fees or perquisites of any description; but he shall receive a salary of *Seven hundred Pounds* per annum as a fixed allowance from the Fee Fund, in lieu of his present fees and perquisites, with the accommodation of office room, or a reasonable allowance for the same, to be fixed by the said Court.

19. Macer.

And be it further Enacted, That as vacancies occur, that the salaries allowed to each of the Macers of Court shall be limited to *One hundred Pounds* per annum.

20. Fee-Fund.

And be it further Enacted, That from and after the *passing of this Act*, the Fees hitherto payable to the Fee Fund, shall all of them be reduced to the extent of one-half of their present amount, and the Fees contained in the Schedule annexed to this Act, shall hereafter form and be paid into the Fee Fund of the Court of Session; and all other fees, dues and perquisites payable by Suitors to the Clerks or Officers of Court, are and shall be finally abolished, under the exceptions hereinbefore made, and that the permanent salaries hereinbefore allowed and provided, shall, from and after the *passing of this Act*, be payable quarterly out of the said Fee Fund.

21. Part of 20 Geo. 2. c. 43, repealed.

And be it further Enacted, That so much of an Act passed in the twentieth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for taking away and abolishing the Heritable Jurisdictions in that part of Great Britain called Scotland, and for making satisfaction to the Proprietors thereof, and for restoring such Jurisdictions to the Crown; and for making more effectual provision for the Administration of Justice throughout that part of the United Kingdom by the King's Courts and Judges there; and for obliging all persons acting as Procurators, Writers or Agents of the law of Scotland, to take the Oaths; and for rendering the Union of the two Kingdoms more complete;" and so much of an Act passed in the thirty-fourth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act to allow vivâ voce Verdicts to be returned to the High Court and Circuit Courts of Justiciary of Scotland in certain cases, and for allowing Appeals to the Circuit Courts of Justiciary in Civil Cases, to a certain amount," as authorizes Appeals from the Sheriff Court to the Circuit Court of Justiciary, is hereby repealed.

22. Treasury may make compensation in certain cases.

And be it further Enacted, That if any Clerk or Officer of the Court of Session, or of the Circuit Court of Justiciary, shall make application to the Lord High Treasurer of the United Kingdom of Great Britain and Ireland, or the Commissioners of His Majesty's Treasury of the United Kingdom for the time being, and shall show in a satisfactory manner, that such Clerk or Officer has suffered or will suffer pecuniary loss from the operation or effect of any of the aforesaid regulations, it shall be lawful to the said Commissioners of His Majesty's Treasury, or any Three of them, and they are hereby authorized and empowered, by warrant to be made and signed by them, to award to such person such compensation as may equitably be due and equivalent to the loss sustained, and that, either by the payment of a gross sum, or by way of annuity, out of the Duties and Revenues of Scotland.

23. Act may be amended or altered.

And be it further Enacted, That none of the provisions of any of the before recited Acts shall be binding, or of any effect in so far as they may be in any respect inconsistent with the provisions of this Act, and that this Act may be repealed, altered or amended during the present Session of Parliament.

5 WILL. IV.—Sess. 1835.

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B I L L

For making certain Alterations and Reductions in the Establishment of Clerks and Officers attached to the Court of Session in Scotland, and to diminish the Expense of Judicial Procedure in that Court.

(*Prepared and brought in by*
The Lord Advocate, Mr. Attorney General and Mr. Solicitor General.)

Ordered, by The House of Commons, *to be Printed,*
9 *March* 1835.

10 *June* 1835.

I.

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B I L L

To Improve the present system of the Court of Session, in Scotland, and regulate the Number, Powers and Duties of the Judges, Clerks and Officers of the said Court, and of the Courts of Teinds and Justiciary; also the Number and Duties of the Clerks and other Officers in the said Courts; and pay them fixed Salaries; and to abolish the Fee-Fund, and other Court Dues levied from Suitors.

[Note.—The Words printed in *Italics* are proposed to be inserted, and the Blanks filled up in the Committee.]

WHEREAS the present constitution of the Court of Session in Scotland is defective, in so far as regards the Division and Discharge of the Duties of the Judges; and it is necessary to render the said Court more efficient, and again to raise it in public estimation, and thereby lessen the number of Appeals from the Judgments of the said Court to the House of Lords: Preamble.

And whereas the number, powers and duties of the Judges, Clerks and Officers of the Courts of Session, Teinds and Justiciary in Scotland, are not sufficiently defined and regulated; and it is necessary more effectually to define and regulate the Number, Powers and Duties of the said Judges, Clerks and Officers:

And whereas the Clerks and Officers of the Courts of Session and Teinds, have hitherto been paid by Fees, and the Clerks and Officers of the Court of Justiciary have also been paid, partly by Fees levied from the Suitors, on the different steps of procedure before the said Courts, and such Fees are unjust in principle, and have become oppressive, and operate as a denial of justice:

And whereas several Reports by Select Committees of both Houses of Parliament have been made to Parliament and also by different

Commissioners appointed by the Crown, to inquire and report with regard to the system of administering Justice in Scotland; and the said Reports and experience have suggested various improvements therein:

And whereas, for the purpose of rendering the administration of Justice in the Courts of Session, Teinds and Justiciary and House of Lords less expensive to all classes in Scotland, it is expedient to abolish the Fee-Fund and all other Fees or Dues levied by the Clerks and Officers from the Suitors in the said Courts, and pay the Clerks and Officers fixed Salaries for discharging the duties of their offices.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from the

I COMMENCEMENT OF ACT.

next this Act shall take effect; and the constitution of the Court of Session, and the number, powers and division of the duties of the Judges of the said Court, and of the Courts of Teinds and Justiciary, shall be regulated by the Fifteen following Regulations:

REGULATIONS

Number of Judges.

1. That the Judges or Lords of Session shall consist of *Twelve* in number; and that no Person under Years of age shall h creafter be appointed a Judge of the Court of Session, to fill any vacancy in the number of the Judges of the said Court, nor shall any Judge exercise his judicial functions after the age of Years, nor to that age, if he shall appear incapable of longer serving through some permanent infirmity, certified by *Two* Physicians, after being examined on oath by the Lord President of any of the Three Divisions of the Court, but shall retire, and receive the established retiring Annuity; provided that the present number of Judges shall be continued until reduced to the said number of *Twelve*, by a vacancy occurring in one of the offices of the present number of Judges.

Appointment, Age and Retirement of Judges.

Three Divisions.

First Division.

2. That the said Lords of Session, to the number of *Twelve*, shall sit in *Three* Divisions; and the *First* of the said Divisions shall include the Lord President and *Three* of the Ordinary Lords of Session; and the *Second* of the said Divisions shall include the Lord President of the Second Division and *Three* of the Ordinary Lords of Session; and the *Third* of the said Divisions shall include a Lord President of the Third Division, to be appointed by His Majesty, and *Three* of the Ordinary Lords of Session; and His Majesty shall appoint such and so many of the present Judges to compose the said Three Divisions, as he shall think fit, without regard to the present arrangement of Judges in the First and Second Divisions of the said Court.

Second Division.

Third Division.

Judges of Divisions to be arranged by His Majesty.

3. That

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3. That, in order still further to promote and improve Jury Trial in Scotland, and to assimilate the practice in such trials, and in other causes of a mercantile, maritime or other nature, in which the rules or principles of Law are similar in Scotland and England, or desirable to be rendered so, His Majesty, on a vacancy or vacancies occurring in the Offices of any of the said Judges, may appoint to be *One* of the Four Judges in each Division, any person who shall have been in practice as a Barrister in His Majesty's Court of King's Bench or Exchequer, or as a Serjeant at Law in His Majesty's Court of Common Pleas in England, for a period of *Ten* Years, and each of which Judges from the English Bar, on such appointment, shall exercise all the powers and duties of any of the said Judges or Lords of Session in the Outer-House, and shall form one of the Judges in each of the said Three Divisions of the Court of Session, and be a Member of the College of Justice; provided that, with the exception of the appointment of the said *Three* Judges, all other vacancies in any of the Offices of Judge, or Lord of Session, that shall happen in any of the said Three Divisions, shall be filled up according to the present law and practice of Scotland.

Three Judges from the English Bar may be appointed on vacancies occurring.

4. That *Three* Judges in each Division shall be deemed to be a Quorum thereof; and the Lord President presiding in each Division, in case of a difference of opinion, shall have a voice, but not a casting Vote.

Quorum; but no casting Vote.

5. That in order to lessen the number of Appeals from the Judgments of the Court of Session to the House of Lords, in case there shall be an equality of voices of the Judges in any of the Divisions of the Court of Session in any cause or matter, and also in order to dispense uniformity of justice in the decisions of the Court, and to settle doubtful questions of law or practice, or in the event of any Party being dissatisfied with the Judgment of any one of the said Divisions, lodging and boxing, within *Six* Days of the Judgment, a written Note, signed by such Party or his Agent, to the President of the Division which pronounced the Judgment, prefixing the date and a copy thereof, and of any note thereto, and stating that it is the intention of such Party to appeal to the House of Lords against the said Judgment of the Division, the Judges of such Division shall, without delay, remit the cause to the other two Divisions of the Court; and thereupon the said two Divisions shall assemble together on an early day, and hear a debate by at least one Counsel, on each side; and the Judges of those two Divisions shall state their opinions, in open Court, and report the result thereof to the Division which made the remit; or the

To lessen number of Appeals, in case of equality of voices, or to settle doubtful questions of law, or in case the judgment of any of the Divisions of the Court is complained of, to be revised by the whole Court.

Judges of the Division, who pronounced the judgment complained of, may require a consultation of the whole Judges or the opinions of the other two Divisions, upon questions stated in writing; and the judgment shall, in all such causes, be pronounced according to the opinion of the majority of the whole Judges; and the Interlocutor shall bear to be the judgment of the Division before which the cause depends, after consulting with the other Judges; and which judgment shall be final in the Court of Session, but subject to the review of the House of Lords; and no such Appeal in any case whatever shall be competent to the House of Lords, unless from the judgment of the whole Court, or a majority thereof, as aforesaid.

Judges in each Division to exercise the same powers, and the Forms of Process to be the same in each.

6. That the Judges sitting in each of the said respective Three Divisions, or so many of them as shall form quorums thereof respectively, as hereinbefore mentioned, shall exercise the like duties, powers and functions, in all causes and matters that shall come before them, as were formerly exercised by the Lords of Session sitting together in Court, or a quorum of them, or in Two Divisions, or as may be further regulated by the present or any other Act of Parliament; and shall enjoy the like authorities and privileges as were formerly enjoyed by the said Lords so sitting, or such quorum of them; and the forms of proceeding and process before each of the said Divisions respectively, and before the Lords Ordinary of each of the said Divisions respectively, shall be the same.

Lords Ordinary, and Depute and Assistant Clerk to each Lord Ordinary.

7. That the Two junior appointed Ordinary Lords of each of the said Divisions shall also be the Lords Ordinary in the Outer-House attached to such Division, and shall have the powers only, and perform the duties of Lords Ordinary in the Outer-House, which are hereinafter specified; and a Depute and his Assistant Clerk, shall act as Clerks to each Lord Ordinary in the Outer-House, and in Chambers, and otherwise, when required.

Powers and Duties of Lords Ordinary sitting in the Outer-House, or in Chambers.

8. That the powers and duties of the Lords Ordinary, in the Outer-House or in Chambers, including the said junior Lord Ordinary, shall, in all causes in absence, remain as at present; and in all original writs or petitions, or other incidental applications, where no appearance is made, the Lords Ordinary shall exercise all the powers of the Court, and grant decree in absence, in terms of the conclusions of the writ or summons or prayer of the petition on application, without any remit from the Inner-House; but in all other causes, where appearance for the Respondent is made, and peremptory defences or answers, without containing any dilatory defences, are lodged, and

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in reclaiming notes in place of Advocations against the judgment of Sheriff or Burgh Courts, and Suspensions, and opposition made, or in ordinary causes where dilatory defences have been repelled by the Lord Ordinary, the said Lords Ordinary shall not hear parties verbally, or pronounce judgment on the merits of the action, except in passing or refusing writs of suspension and interdict, or suspension and liberation, and also except in causes where interrogatories are answered, or judicial examinations taken, and the record closed on the original or amended writ or summons or petition, with or without amendment, and on the original declaration and answers, and written evidence, without a proof by witnesses before the Lord Ordinary, or on Commission, or Trial before a Jury, being necessary; provided that, in such excepted causes, the said Lords Ordinary shall hear parties, and pronounce judgment, or, if necessary, shall take the judicial examinations of parties, and oaths of havers or of parties, in the case of references to oath of party, and shall consider such judicial examinations, or answers to interrogatories or depositions of havers or parties, and all written evidence produced or recovered, and determine the cause, and pronounce judgment therein, where the parties have closed the record as aforesaid; and the said Lords Ordinary shall further also review the orders of the Depute Clerks of Session on a verbal Appeal, in the preparation of the records on the merits, in all causes, both for the judgment of the Lords Ordinary in the Outer-House and the Inner-House of each of the said Divisions.

Places of Meeting of each Division, and of the Lords Ordinary.

9. That the First and Second Divisions of the Court of Session shall continue to sit in the present Court-rooms, or places appropriated to and used by them; and the Third Division shall sit in the Court-room or place lately used for the sittings of the Barons of Exchequer, or such other room or place of accommodation already existing as shall be provided most convenient for all parties interested, and as His Majesty shall appoint; and the Lords Ordinary, during their morning sittings, may sit either in the Inner-House of any of the said Three Divisions, or in the Outer-House, as may be most convenient, or in such other rooms or places as His Majesty shall appoint; and each of the said Divisions and Lords Ordinary shall sit on the same days in each week as have hitherto been the days of sitting in the Inner-House of the said First and Second Divisions, and in the Outer-House, and at such hours as shall be hereinafter appointed.

 10. That

Duties and Office of Lord Chief Commissioner of Jury Causes. 11 Geo. 4, and 1 Will. 4, c. 69, s. 3 & 8.

10. That the duties of the present Lord Chief Commissioner of Jury Causes shall continue to be performed, as provided for by an Act of his late Majesty King GEORGE the Fourth, the eleventh year and first of His present Majesty, intituled, "An Act for uniting the Benefits of Jury Trial in Civil Causes, with the ordinary Jurisdictions of the Court of Session, and for making certain other alterations and reductions in the Judicial Establishments of Scotland," and which duties he may perform in any of the Three Divisions of the said Court; but on a vacancy occurring in the office of the said Lord Chief Commissioner, no successor to him shall be appointed.

Duties of Junior Lord Ordinary, until number of Judges reduced to Twelve.

11. That the junior appointed Lord of Session, when this Act comes into operation, shall act under all remits made by the Lords of Council and Session, as Commissioners for Plantation of Kirks and Valuation of Teinds, as at present, and shall be vested and act with the same powers as the whole Court of Session, or any one of the said Three Divisions, in all mere forms and routine, and where there is no opposition, in matters relating to sequestration of bankrupt estates, and otherwise shall perform the same duties, and have the same powers, as the other Lords Ordinary in the Outer-House as before mentioned; but on a vacancy occurring amongst the Judges of the said Court, the said junior Lord Ordinary shall cease to act as such, and shall become one of the ordinary Judges, in one of the said Three Divisions, and his duties and powers as Lord Ordinary in Reductions, and in Teind causes, and matters relating to Sequestration, or otherwise, shall be transferred to, and performed during Session by, each of the Three junior Lords Ordinary of the said Three Divisions, for their respective Divisions, and during vacation by each of the Nine ordinary Judges weekly, by rotation as at present; and each of the said Three junior Lords Ordinary shall also discharge, in the first instance, the duties of the present Barons of Exchequer, when they shall devolve on the Judges of the Court of Session, as provided by an Act of the second year of the reign of His present Majesty, intituled, "An Act for making Provision for the despatch of the Business now done by the Court of Exchequer in Scotland," notwithstanding of the third, fourth and sixth sections of the said recited Act, which, in so far as inconsistent with the regulations in this section, and in so far as an additional salary was to be provided to the Judges of the Court of Session, who should perform the duties of the Barons of Exchequer, are hereby repealed.

When reduced to Twelve, three Junior appointed Judges of the Divisions to perform his duties,

And perform duties of Barons of Exchequer.

2 Will. 4, c. 54. partly repealed.

Sittings of Lords Ordinary in Outer-House.

12. That the Sittings of the Lords Ordinary in the Outer-House shall commence in the Mornings on each usual day, at *Nine* o'clock

o'clock, and continue till *Eleven* o'clock, provided always that any of the said Lords Ordinary may sit in chambers, or elsewhere, on the Evenings of the day, at such time and place as they shall specially appoint; and of which sitting special notice by post or otherwise, shall be given by the Clerk to the process to each of the parties, or their agents in the cause, *Forty-eight* Hours before such sitting is held.

Sittings in Inner-House.

13. That the Sittings in the Inner-House of the Three Divisions shall, on each usual day, commence at *Eleven* o'clock forenoon, and continue till *Four* or *Five* o'clock afternoon, or such time as may be necessary, in order that the Causes enrolled on each day before the Court may be fully debated, and heard by the Court in a deliberate manner, in one day, if possible, without being continued till another day: And in all causes that shall be determined in the Inner-House, the Court shall allow parties, or one or more Counsel, to be heard verbally, in the most deliberate, patient, and solemn manner; and each Judge shall fully and formally state, in open Court, the grounds and reasons of his opinion or judgment, for the satisfaction and information of the parties, before the Court gives judgment in the cause.

Hearing of Counsel, and Opinions of Judges in Inner-House.

The Twelve Judges to perform the whole duties of the Court of Session, Commission of Teinds, and Courts of Exchequer and Justiciary.

14. That the whole duties connected with the Courts of Session and Justiciary, and Commission of Teinds, and the Court of Exchequer, when the duties of the last-mentioned Court shall come to be performed by the Court of Session, shall be performed by the whole aforesaid Twelve Judges of the Court of Session; and the Court of Justiciary, when sitting in Edinburgh, shall be composed of one of the said three Divisions of the Court of Session in rotation, any law to the contrary notwithstanding; and the whole Judges shall be divided by an Act of Adjournal for Circuits, and shall perform the same duties in rotation.

No Judge of the Court of Session to officiate in other Courts in Scotland.

15. That no Judge of the Court of Session shall officiate as a member of any other Court in Scotland, whether Civil or Ecclesiastical.

II.

Judges of Court of Session Teinds and Justiciary not to appoint any Clerk or Officer of these Courts

And be it Enacted, That none of the Lords President of the Court of Session, nor the Ordinary Judges of any of the Three Divisions of the Court of Session, Teinds and Court of Justiciary, nor any Divisions thereof, shall appoint any Clerk or Officer in the said Courts.

III.

Extension of Sessions. Repealing in part 11 Geo. 4. and 1 Will. 4. c. 69, s. 10.

AND whereas by the said recited Act of the eleventh year of the reign of his late Majesty King George the Fourth and the first year of His present Majesty, it was provided, that it should be lawful to His Majesty to extend the Winter and Summer Sessions not exceeding one Month of the Year, or to diminish such extension as occasion might require, and that for the information of His Majesty, the Lord President

dent of the Court of Session should make a return as therein mentioned; and it is expedient to repeal in part the said clause; BE it Enacted, That in regard to said Clause in the said recited Act, and the extension of the Summer and Winter Sessions, and the Box-days in time of the Vacations and Christmas Recess, and Sittings of the Court of Session in September yearly, the following Three Regulations shall be observed :—

Regulations as to Extension of the Sessions, and the Box-days and Sittings in September.

Return of Number of Actions brought into Court of Session to continue to be made.

1. That the Clause in the said recited Act, in so far as regards the extending of the Winter and Summer Sessions one Month, or diminishing such extension, shall be and is hereby Repealed; except that the said Return, as required by the said Act, shall continue to be made to His Majesty on or before the *Fifteenth* day of *January* each year, and according to the form prescribed in the Schedule annexed to the said Act, with the addition of showing in separate columns the number of causes decided by each of the Lords Ordinary in Absence and in Foro, and the number of Causes deteated and decided in the Inner House of each Division of the Court, other than Reclaiming Notes against Judgments of the Lords Ordinary; and which Return shall be laid before both Houses of Parliament.

Winter Session.

Christmas Recess.

Summer Session.

Box Days.

2. That the Winter Session of the Court of Session shall in future commence on the *First* day of *November* and continue until the *Saturday before the Christmas Recess*; and after the Christmas Recess, which shall continue for *Three* Weeks, the said Winter Session shall be continued, for ordinary business, from the *First Tuesday* after the elapse of the said *Three* Weeks to the *Eleventh* day of *April* following; and Sittings of the Court of Session at Edinburgh shall be held for *Fourteen* Days thereafter for the purpose of trying all Jury Causes set down for trial, without prejudice however to trying Jury Causes during the Winter and Summer Sessions: And the Summer Session shall commence on the *Twelfth* day of *May*, and continue till the *Twelfth* day of *July* following, for ordinary business; and Sittings at Edinburgh shall be held for *Fourteen* Days thereafter for trying all Jury Causes set down for trial; provided that the Box-day in the Christmas Recess shall always be on the *Fifth* day of *January*, if a lawful day, and if not a lawful day, on the following lawful day thereafter; and the Box-day in the Spring Vacation shall be fixed by the Court of Session in the month of *April*, but so as not to interfere with the Sittings of the Circuit Courts; and the Box-days in the Autumn Vacation shall be on the *First* day of *August*, *First* day of *September*, and *First* day of *October*, or if any of the said days should not be a lawful day, on the following

following lawful day thereafter; and further provided, that the Lords Ordinary may pronounce and date their Interlocutors at any time during the Vacations or Christmas Recess.

Interlocutors may be pronounced and dated during the Vacations or Recess.

3. That the Court of Session, both Inner and Outer House, shall hold Sittings commencing on the *First Tuesday* after the Box-day in *September* in each year, and shall continue for *Four* lawful days, with power to the said Court, if it should appear to be necessary, to continue the said Sittings for as many other days as may be necessary, in order that judgment may be pronounced in every Cause depending before the Court in which Records have been closed or reclaiming Notes presented, or otherwise prepared for judgment; and during said Sittings new actions may be called, enrolled and proceeded with as in time of Session; and all Causes set down for Trial by Jury shall be tried, and Decrees pronounced, and every other Cause in dependence, be brought before the Lord Ordinary, as the case may be, on the enrolment, motion or desire of either Party in the Cause, and the Lords Ordinary, in so far as they have power, in terms of this Act, or the Court, shall, if necessary, hear the Parties or Counsel, and pronounce such Order, Decree or Judgment as shall appear expedient to the Lord Ordinary or the Court; and all Interlocutors, including Decrees in Absence pronounced by the Lords Ordinary in the Outer-House of the Court of Session during said Sittings, subject to review, shall become final, unless reponed, or a reclaiming Note to the Inner-House be boxed and lodged on the following Box-day, provided that *Twenty-one* Days have elapsed from the date of the said Interlocutor, or if in any case said *Twenty-one* Days have not elapsed, on the first Sederunt Day in *November*, as the case may be; and provided that the Circuit Jury Courts of Session and Justiciary shall be fixed to be held subsequent to said Sittings of the Court of Session, and so as not to interfere with such Sittings.

Sittings in September.

When Interlocutors in Vacations or Recess become final

Circuit Courts to be held subsequent to Sittings of Court of Session in September.

IV. Regulations of the Number, Powers and Duties of the Clerks and Officers of the Court of Session.

AND whereas by the thirteenth section of the said recited Act passed in the eleventh year of the reign of his late Majesty King George the Fourth and the first year of the reign of His present Majesty, it was enacted, that certain reductions of the number of Clerks of the Court of Session should take place, and particularly that the vacancies in the offices of two Principal and two Depute Clerks of Session, which should then next occur, should not be supplied until the total number of such Clerks, including those connected with proceedings in Trial by Jury, should not exceed the number of Clerks exclusively belonging to the Court of Session at the passing of the said Act; and that it should be lawful for the said Court of Session, from time to

time as said vacancies should occur, to make such Regulations as might be necessary for duly apportioning the duty among the remaining Clerks: And whereas no provision in the said Act was made as to the offices or duties of the two Assistant Clerks in the offices of the two Principal Clerks, the vacancies in which it was provided should not be supplied: And whereas two vacancies in the said offices of Principal Clerk, and one vacancy in the office of Depute Clerk, and one vacancy in the office of Assistant Clerk have occurred, and doubts and difficulties have been entertained with respect to the true intent and meaning of the Clause in the said Act; And whereas in consequence of dividing the Court of Session into Three Divisions, it is necessary to regulate the number, and, in some respects, the qualifications and duties of the Clerks and Officers of the Court of Session; BE it Enacted, That the Fourteen following Regulations, with respect to the number, powers and duties of the Clerks and Officers of the Court of Session, shall be observed:

Number of Clerks in the Court of Session fixed.

1. That the number of Clerks to be employed in conducting the business before the Court of Session shall be *One* Principal Clerk, and *One* First Assistant, and a Second Assistant Clerk in each of the Three Divisions of the said Court, and *Six* Depute, and *Six* Assistant Clerks of Session in the Outer-House; and *Two* Principal Clerks for preparing Issues, and *One* Assistant Clerk to the said Issue Clerks, and another Assistant Clerk and Keeper of the Rolls in Jury Causes; and the Court of Session before the commencement of the first Winter Session after the *commencement of this Act* shall, by Act of Sederunt, apportion, equally, all depending causes in the Inner-House amongst the offices of the three several Principal Clerks, and all depending causes in the Outer-House amongst the Six Depute Clerks of Session.

Offices of one Principal Clerk, three Assistant Clerks in Inner-House, two Principal Clerks of Record, and Assistant Clerk and Keeper of Rolls in Jury Causes abolished.

2. That the office of the present senior appointed Principal Clerk of Session, on a vacancy occurring in his office, by resignation or otherwise, the office of his Assistant, and the *Two* offices of Assistant Clerks in the Inner-House to the late Sir Walter Scott, Baronet and Sir Robert Dundas, Baronet and the *Second* and *Third* Principal Clerks of Record in Jury Causes, shall be and are hereby abolished, provided that the said senior Principal Clerk of Session and his Assistant shall, until a vacancy occurs in their offices as aforesaid, assist, where their services may be most required, the other Three Principal Clerks of Session in the discharge of their duties.

Appointment of Vacant Offices.

3. That the Assistant Clerk of the late Sir Walter Scott, whose office is abolished, shall be appointed by His Majesty to be a Depute Clerk of Session in the office of the Depute Clerk of Session that will be vacant on the *commencement of this Act*, notwithstanding

standing of any law to the contrary; that the Assistant Clerk of the said Sir Robert Dundas, whose office is abolished, shall be appointed by His Majesty to the vacant office of Assistant Clerk to Mr. Thomas Bruce, Depute Clerk of Session; and the Assistant Clerk of the late Mr. William Pringle, Depute Clerk, whose office is abolished, shall be appointed by His Majesty Assistant Clerk in the Outer-House to the Depute Clerk to be appointed by His Majesty as aforesaid, and the Bill Chamber Depute and Assistant Clerks who discharge the duties of their offices personally in the Bill Chamber, and whose offices are abolished, shall also be appointed to other offices of similar extent as the duties of their present offices, on vacancies occurring in the Court of Session, provided that the said Clerks are found duly qualified for the performance of the duties of such vacant offices.

Three Auditors of the Court of Session.

4. That the present Auditor of the Court of Session shall be the Auditor attached to the First Division of the said Court; and that an Auditor of Accounts shall further be appointed to each of the said Second and Third Divisions of the said Court; provided always, that they shall be qualified in terms of the Thirty-second Section of the said recited Act, in the first and second of the reign of his late Majesty King GEORGE the Fourth; and the appointment of the said last-mentioned Auditors shall be vested in His Majesty, His heirs and successors, in like manner as is provided by the said Thirty-second Section of the said recited Act of the first and second of the reign of his late Majesty King GEORGE the Fourth, with respect to the appointment of a successor to the first-mentioned Auditor; and the appointment of the Auditor of the First Division of the said Court, on a vacancy occurring in his office, shall also be made by His Majesty, His heirs and successors: And His Majesty may appoint the Second Clerk of Record on Jury Causes, whose office is abolished as aforesaid, to be Auditor of the Second Division of the Court of Session; and the Third Clerk of Record in Jury Causes, whose office is abolished, to be Auditor of the Third Division of the Court of Session; and each of the said Auditors shall be allowed a Clerk, who shall be appointed by him, and be subject to his authority and control, and liable to be removed by him; and an office or chambers in the Register House, or near to the Parliament House, shall be provided for each of the said Auditors and his Clerk; and each of the said Auditors of Accounts shall audit and report on all the accounts of expenses, which shall be remitted to him by the Division of the Court, or any of the Lords Ordinary of such Division to which he is attached, or by the

1 & 2 Geo. 4. c. 38, s. 32.

Duties of Auditors.

Junior Lord Ordinary, who shall remit such accounts of expenses to each of the said Auditors in rotation; and each of the said Auditors shall also execute all remits by the said Divisions of the Court, or Lords Ordinary, which shall be made to him as an accountant as part of his public duty, and for which he is paid by his salary, without prejudice to the Court, or the Lords Ordinary, making remits to accountants, not officers of Court, in causes of such extent and magnitude as may require a greater portion of time and labour than is compatible with the despatch that is necessary in taxing accounts of expenses, and in remits in ordinary causes to the Auditor as an accountant; and such accountants shall be paid for their labour in such remits by the parties, such sums as the Court, or the Lords Ordinary making the remit, shall think just and reasonable, on hearing the parties interested; and the said Chambers of he Auditors shall be kept open from *Nine* o'clock in the morning to *Four* o'clock in the afternoon, during which the said Auditors and their Clerks shall attend, and from *half-past Six* o'clock to *half-past Eight* o'clock in the evening.

Office Hours.

Who may be appointed Principal, Deputy or Assistant Clerks of Session, or Principal Clerk of Teinds or Justiciary.

5. That Members of the Faculty of Advocates, or of the Society of Writers to the Signet, or of the Incorporated Society of Solicitors before the Supreme Courts of Scotland, who shall have been *Five* Years in actual practice, shall be eligible to be appointed by His Majesty, His heirs and successors, as Principal, Deputy or Assistant Clerks of Session, and also as Principal Clerk of Teinds and Principal Clerk of the High Court of Justiciary, notwithstanding of any Law, Act of Sederunt, Act of Adjournal or custom to the contrary.

Who may be appointed Clerks of Issues in Jury Causes.

6. That Members of the Faculty of Advocates, who shall have been *Ten* Years in actual practice, or other professional persons equally qualified, shall be eligible as Clerks of Issues in Jury causes.

Duties of Principal Clerks.

7. That in addition to the discharge of the ordinary business of the Principal Clerks of Session, their duties shall be as follows: First, Each shall exercise a constant general control over the discharge of all the duties of the Depute and Assistant Clerks of Session in the Outer-House, and shall attend the Office in the Register House, and take part with his own Assistants in the Inner-House in the performance of their several duties, where necessary, or, in case of the indisposition of either of his Assistants, shall perform the duties of his office: Secondly, Write out the draughts and clean copies of all the Interlocutors or Judgments pronounced by the Inner-House in reclaiming Notes against the Judgment of Sheriff or Burgh Courts or Suspensions; and also all Interlocutors or Judgments in the Inner-House in

cases

cases of Teinds and Sequestrations: Thirdly, Perform the Inner-House Duty of the Principal Clerks of Record in Jury Causes: Fourthly, Attend at all Jury Trials which take place at Edinburgh: Fifthly, Perform all the duties required to be performed by them with regard to Parliamentary Trusts and Judicial Factories, and the consignations of money, and the accumulation of dividends or interest, and receiving and preserving bonds of caution for Judicial Factors, and the senior Principal Clerk shall preserve the Bank Receipts for money consigned or bonds of caution received in loosing Arrestments, and in Suspensions, and Suspensions and Interdict, and Suspensions and Liberation, originating in the Court of Session, and in other Judicial Proceedings and bonds of caution for Judicial Factors: Sixthly, One of the Principal Clerks, in weekly rotation, shall attend in his office in the Register House during vacation, for such time as may be necessary in each lawful day, to perform the whole duties of the Principal Clerks in superintending and controlling the business and clerks in the several offices of the Principal and Depute Clerks, and of the Keeper of the Judicial Records and Examiner of Extracts in the Register House, and in receiving receipts for consigned money, and in examining the validity of and receiving bonds of caution as aforesaid, and to consult with the other Clerks and Agents in cases of difficulty in matters of practice; Seventhly, Each Principal Clerk to a Sequestration of a Bankrupt Estate or to Incidental Petitions, or Applications, which have hitherto been presented to and disposed of by the Inner-House, but which shall in future be disposed of by the Lords Ordinary, where there is no appearance or opposition; and, lastly, Each Principal Clerk and his First Assistant of either of the two Divisions of the Court which shall assemble together, where the Judges of any of the three Divisions remit a cause for the consideration of the other two Divisions as aforesaid, shall in daily rotation act as Clerks to the said two Divisions, and write the Interlocutors of such two Divisions sitting together, and receive, take charge of and transmit back all processes remitted by the other Divisions to them; but the present Senior Clerk of Session and his Assistant shall solely discharge this duty while the said Senior Clerk remains in office.

8. That besides all the present ordinary duties of the Assistant Clerks in the Inner-House, who shall in future be called First Assistant Clerks, they shall discharge the following duties: First, Each First Assistant Clerk shall assist the Principal Clerk in the discharge of all his duties, in so far as the Principal Clerk may desire or require his assistance: Secondly, Take charge of all

Duties of First Assistant Inner-House Clerks.

all the processes, including those in Jury and Teind Causes, and in reclaiming Notes against the Judgments of Sheriff or Burgh Courts, and Suspensions, and Sequestrations, and the productions therein, and other judicial proceedings, and papers lodged in the Office of their Principal; attend at the Office to receive processes and papers; lend out and receive back processes; keep the Minute Book of the acts and proceedings in the processes under his charge; furnish copies thereof for the printed Minute Book, and, along with the Assistant Clerks in the Outer-House, take charge, in weekly rotation, of the printing and circulation of the Minute Book; receive from or transmit processes to the Depute Clerk's Office; keep alphabetical indices of the various processes in the Office of the Principal Clerk, arranged in classes; receive the Bank receipts for money consigned; lodge the said Bank receipts in the hands of the Senior Principal Clerk; arrange for Court the processes which are to be advised; examine the various papers, and vouchers or productions, and report matters to the Principal Clerk; attend in Court during its sittings; receive processes from or give access to them to the Agents at Side Bars, and communicate to them draughts of interlocutors, before being signed, and assist, as occasion requires, in preparing or copying the interlocutors, or selecting from the process any papers that are called for; and in future each Assistant Clerk in the Inner-House shall be provided with a seat at the table within the Bar, and also a convenient Side Bar without the Bar, with drawers and other accommodations for receiving, keeping and lending processes, and showing draughts of interlocutors; and such Assistant Clerks shall officiate in Court during the absence or indisposition of the Principal Clerk; and the First Assistant of the Senior Principal Clerk of the First Division shall assist his principal in keeping the Sederunt Book of the Court, and in printing and circulating the Acts of Sederunt ordered to be printed; and one of the said Assistant Clerks inrotation in each Division shall attend between *Nine* and *Half-past Ten* o'clock each morning in the Inner-House, and make enrolments, and prepare and give out copies of the Rolls in the Inner-House for publication in the Outer-House, and in the Lobby of the Register-House, in terms of the regulations as to the Rolls.

Appointment and Duties of Second Assistant Clerks in Inner-House.

9. That in order to enable the Principal Clerks of Session to discharge the additional duties imposed on them by this Act, and otherwise, *One* additional Clerk, to be called the Second Assistant Clerk to the Principal Clerk, shall be allowed to each of the three Principal Clerks, and such Second Assistant Clerk shall be appointed by the Principal Clerk, and be subject to his authority and control, and may be removed by him; and the said

said Second Assistant Clerk shall assist the Principal Clerk in the discharge of the duties of the Principal Clerk in the departments of Sequestration, and of Parliamentary Trusts and Judicial Factories, and consignations of money, and the accumulations of interest, and keep the Books and Registers, and lend processes to agents on receipt, and receive them back, and in all the other duties of the Principal and First Assistant Clerks in the said departments of business; and when he is not engaged with such business, he shall assist the Principal and First Assistant Clerk in the discharge of all their other duties, except their attendance in Court; and the said Second Assistant Clerk shall constantly remain in and keep open the office of the Principal Clerk in the Register House, from *Eleven* of the clock forenoon to *Four* of the clock afternoon, and from *half-past Six* to *half-past Eight* of the clock in the evening, every lawful day during the Sessions of the Court, (except Saturday and only such days as are observed by the Court as holidays,) and from *Eleven* of the clock forenoon to *Three* of the clock afternoon, each lawful day in the vacations and recess: Provided, That the Principal Clerk may require such further and other attendance of the said First and Second Assistant Clerks in the said office from time to time, as the business of the said office may require, or as he may judge necessary for the due despatch of the business thereof and the accommodation of the Public; and on which occasions the Principal Clerk himself shall not be absent from the office above one-half of such extra time.

Office Hours.

10. That the Depute Clerks of the Outer-House shall be relieved of their present duty of officiating for the Principal Clerks, in case of necessary absence in terms of Section fourteen of the before-recited Act of his late Majesty King GEORGE the Fourth, the eleventh year, and of his present Majesty the first year; and so much of the said Section as relates to the performing such duties for the Principal Clerks in their absence is hereby repealed; and in addition to the present duties of the said Depute Clerks of Session in the Outer-House, their duties shall be as follows: First, Each Depute Clerk shall exercise a constant control over the discharge of all the duties of his Assistant in the Register House, and discharge part of the business of the office, and take charge of the whole business thereof, in case of the temporary absence or indisposition of his Assistant: Secondly, Act in all remits made to him by the Lords Ordinary, report on the state of any process, or the interests of the suitors therein, where the points in dispute resolve into matters of account, or states or views of sums of money, and calculations not much involved in arithmetical

Duties of the Depute Clerks in the Outer-House.

metical detail, or other matter that the Lord Ordinary may remit to him; and under such remits, and without special power being delegated to him in every case, he shall, where necessary, examine parties, either verbally, or by way of judicial examination, or order parties to answer interrogatories, and complete short records of their averments and denials, and close the same, if no more summary mode of ascertaining the facts in dispute shall be arranged or devised; or order written evidence, to be produced or recovered, and examine havers and witnesses on oath, and report his opinion on the matter in dispute to the Lord Ordinary: Thirdly, Superintend or make the necessary entries in the minutes of procedure in each process, and in the Minute Book of all Writs or Summonses, or Petitions raised before the Court, and see that copies of the Minute Book are duly furnished to the Assistant Clerk for the time for the printed Minute Book, and superintend the printing and circulation of the Minute Book; and the junior appointed Depute Clerk shall, in the first instance, receive all Writs and Petitions, in order to be distributed by him, equally, amongst the Offices of the Six Depute Clerks, and attend to the other details relative to such stage thereof, as regulated; and shall also enter in the Minute Book the several matters to be registered and published relative to edictal citations, as hereinafter regulated: Fourthly, Each Depute Clerk shall superintend, in the first instance, the preparation and closing of the record in every process brought into his office, according to the special regulations for preparing and closing records: Fifthly, Sit in the Outer-House, commencing at *Eleven* o'clock each forenoon, during the Session, and the sittings in the Vacation, and hear and dispose of all motions with regard to the preparing and closing records, which shall be enrolled to be heard before him, and shall dispose of the same in terms of the particular regulations with regard to the preparing and closing records; and after his business in the Outer-House is discharged, he shall attend in the Register House till *Three* o'clock, or such further time thereafter, or in the evening, as may be necessary for the despatch of the business under his charge; and he shall also attend the office occasionally during vacation, and officiate in the absence of his Assistant: Sixthly, Attend the trials in Jury Causes on Circuits, and, on such Circuits, perform all the duties of the Principal Record Clerks in Jury Causes: Seventhly, The Depute Clerk to the process shall attend the Lord Ordinary at any time required, to write interlocutors, or in hearing of appeals against his own orders, or at the chambers of the Lords Ordinary, at meetings with Parties' Agents or Counsel, regarding the preparation of the record, or taking declarations or depositions of parties,

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or depositions of havers or witnesses; and shall provide a Clerk to write the declarations or depositions; and he shall also attend and act as Clerk of all meetings in processes of rankings and sale and multiple poinding for electing common agents, and the sales of lands, or ships, and the like.

Duties of Assistant Clerks in Outer House.

11. That, in addition to the present duties of the Assistant Clerks of Session, their duties shall be as follows: First, Each shall take charge of all Jury Causes, and reclaiming Notes against the Judgment of Sheriff and Borough Courts, and Suspensions, and Suspensions and Interdict, and Suspensions and Liberation, Petitions, or other processes of whatever kind (while they depend before the Lords Ordinary in making up records, excepting Petitions under the Bankrupt Act, and other incidental Petitions in the Inner-house in absence;) and perform all the duties with regard to the proceedings in them, in the same manner as at present in ordinary causes: Secondly, Receive and register all writs or summonses, petitions, or first steps of processes presented to them, and transmit to the Inner-House Clerk all incidental Petitions, or other applications, where no appearance or opposition is made; and the Assistant to the Junior appointed Depute Clerk, shall assist him in entering in the Minute Book abstracts of all Edictal Citations: Thirdly, Make entries of the minutes of procedure and of all other necessary matters in the Minute Book, and furnish a copy thereof for the printed Minute Book, and superintend the printing thereof in rotation, as regulated: Fourthly, Assist the Depute Clerk, from *Nine* to *Eleven* o'clock forenoon of each sederunt day, during the sittings of the Court, in writing out the interlocutors of the Lord Ordinary, and when not so employed, in receiving processes from Agents, and giving access to them to the Agents at the Side Bars, and showing them the interlocutors before being signed: Fifthly, Take from *Eleven* to *Twelve* o'clock forenoon the enrolments of motions before the Depute Clerk, and of motions before or notices of Appeal from the orders of the Depute Clerk to the Lord Ordinary; and furnish copies of each of the Rolls to the door-keeper, to be placed on the boards of the Outer-House, and in the lobby of the Register House: Seventhly, At the same time receive the printed papers, and put them into the Judges' Boxes; and thereafter deliver them to the Macers, to be taken by them to and left at the houses of the Judges: Seventhly, Assist the Depute Clerk from *Twelve* of the clock noon, and as long thereafter as may be necessary in writing out his orders in the preparation and closing of record: Eighthly, Attend during Session in the office in the Register House, on Mondays from *Eleven* of the clock forenoon to *Two* of the clock afternoon,

Office Hours.

afternoon, and in the evenings from *Six* to *Eight* of the clock, and on other lawful days of the week, and keep the office open, after the time the Outer-House business is finished, till *Four* of the clock afternoon, and in the evening from *half-past Six* to *half-past Eight* of the clock; and in the Recess and Vacations, from *Eleven* of the clock forenoon to *Two* of the clock afternoon, on every other lawful day, except Saturday; provided that, on the Saturdays, during Vacation or Recess, *One* of the Depute Clerks, and *One* of the Assistants, shall attend in rotation on that day, from *Eleven* of the clock forenoon to *Two* of the clock afternoon, and act for any of the absent Clerks, for the purpose of carrying through Sequestrations, reclaiming Notes against the Judgment of Sheriff and Borough Courts or Suspensions, Summary Applications, or other necessary business; and the name or number of the Depute Clerk's office so kept open shall be notified on the boards in the lobby of the Register House.

Duties of the Issue Clerks and their Assistant.
Duties of Assistant Clerk and Keeper of the Rolls in Jury Causes.

12. That the Issue Clerks in Jury Causes, and their Assistants, shall continue to discharge their duties as at present; and the Duties of the Assistant Clerk and Keeper of the Rolls of Jury Causes shall be, to receive all processes transmitted from the offices of the Issue Clerks, or Clerks in the Court of Session to such causes, keep a record of such causes, and to lend to Agents, if necessary, and receive back such processes while they remain in the Jury Office, which shall be from the final settlement of the Issues until after the Trial and the Verdict becomes final; after which, he shall, if required, transmit the process to the Clerk of the Process, that the subsequent usual proceedings may take place in the process; and the said Assistant Clerk shall receive notices of all Trials and countermands of such notices, make up Lists of Jury Causes for Trial at the sittings in Edinburgh and on the Circuits, according to the present practice, sign Diligences against Havers, and Witnesses, and Commissions for examining them in Jury Causes, sign and transmit Precepts to the Sheriffs for summoning Jurors, and Rules and Precepts for Views, reduce Special Jury Lists, with the Agents of the parties, prepare the Lists of Jurors for the ballot-box, superintend and settle Interrogatories, Special Cases, Special Verdicts, and Bills of Exceptions, receive and take a memorandum of admissions of parties, perform his present duties to each of the Lords President of the Court of Session, by furnishing them with the printed papers in Jury Causes, and consulting the said Lords President as to the order of the Trials, and as to taking up causes for Trial during the Session or otherwise, keep a

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Minute Book of all causes tried by Jury as at present, and give all necessary information to Parties or their Agents while the process remains in the Jury Office as aforesaid; and the said Jury Office shall be kept open and attended by the said Assistant Jury Clerk, except when engaged in Court, during the forenoon, from *One* of the clock to *Three* of the clock in the afternoon during each day except Saturdays and Holidays, and on Saturdays from *Eleven* of the clock forenoon to *One* of the clock afternoon, and from *Twelve* of the clock noon to *One* of the clock afternoon every day except Holidays, during the Christmas Recess and Vacations.

Office Hours.

13. AND whereas the present practice of adopting the initial letters of the Surnames of the different Principal and Deputy Clerks of Session, as Office Marks, for marking and distinguishing the papers in processes belonging to their respective offices, is liable to error, and gives rise to much trouble and expense in searching for papers after a series of years; BE it Enacted, That the said practice and all other names of offices shall be and are hereby Abolished; and hereafter the letter (A.) shall be used to denote the office of the Principal Clerk of the First Division; and the letters (A. 1.) and (A. 2.) shall denote the offices of the First and Second Depute Clerks of the said Division in the Outer-House; and in like manner the letter (B.) shall denote the office of the Principal Clerk of the Second Division, and the letters (B. 1.) and (B. 2.) the offices of the First and Second Depute Clerks of the Second Division, respectively; and the letter (C.) shall denote the office of the Principal Clerk of the Third Division; and the letters (C. 1.) and (C. 2.) the offices of the First and Second Depute Clerks of the Third Division, respectively; and no official markings of the Clerks shall be legal, unless such letters shall be used as above set forth.

Office Marks of Clerks of Session.

14. WHEREAS the Law Commissioners appointed by His Majesty's Letters Patent, on Sixth June One thousand eight hundred and Thirty-three, state in their First Report, with regard to the manner of discharging the duties of the office of Extractors of Acts and Decrees in the Court of Session, "That very general complaints exist among practitioners, as to the mode in which the important functions of this office are performed;" and whereas the said Commissioners and experience have suggested that the duty of extracting Acts and Decrees of the Court of Session should be better regulated: AND whereas it is expedient to abolish the offices of Extractors, as presently conducted, and that all extracts of Acts and Decrees should be prepared and signed by the agents of court: AND whereas the duties of the Keeper of

Offices of Extractors abolished.

the Records are intimately connected with those of the Extractors, and it is expedient to place the charge of superintending and examining the extracts of all Acts and Decrees, and keeping the Judicial Records of the Court of Session under one officer; BE it Enacted, That so much of an Act of the fiftieth year of the reign of His Majesty King GEORGE the Third, Chapter One hundred and twelve, intituled, "An Act for abridging the Form of extracting Decrees of the Court of Session in Scotland, and for the Regulation of certain parts of the Proceedings of that Court;" and of an Act of the first and second year of his late Majesty King GEORGE the Fourth, Chapter Thirty-eight, intituled, "An Act for establishing Regulations respecting certain parts of the Proceedings in the Court of Session, and in the Court of Commissioners for Teinds, and respecting the Duties, Qualifications and Emoluments of certain Clerks and other Officers of the said Courts," as relates to the office of Extractors, and so much of an Act of the fifty-fifth year of His Majesty King GEORGE the Third, chapter seventy, intituled, "An Act for better regulating the Formation and Arrangement of the Judicial and other Records of the Court of Session in Scotland," as relates to the office of Keeper of the Judicial Records of the Court of Session, and is inconsistent with the following enactments, shall be and are hereby Abolished; and that the duties of examining and certifying the extracts of all acts and warrants of the Court of Session, and of keeping the Judicial Records of the said Court, shall be performed by one officer under the name of Examiner of Extracts of Acts and Decrees of the Court of Session, and Keeper of the Judicial Records; and such officer shall be the present Keeper of the Judicial Records, and on any vacancy occurring in this office, His Majesty, His heirs and successors shall appoint his successor to the office; and the extracts of all acts and decrees of the Court of Session shall be framed by the Agent in the Court of Session of the party in whose favour the act or decree is obtained, and authenticated by his signature, according to the prescribed forms; and all such extracts shall be examined by the said Examiner of Extracts and Keeper of the Judicial Records, and if found correct, certified by him accordingly; and the Chambers of this officer shall be kept open from *Nine* of the clock in the morning to *Four* of the clock in the afternoon, and from *half-past Six* of the clock to *half-past Eight* of the clock in the evening.

50 Geo. 3. c. 112, s. 13, 15 and 16; 1 & 2 Geo. 4. c. 38, s. 17, 18, 19 and 20. 55 Geo. 3. c. 70; 55 Geo. 3. repealed.

Extracts to be prepared by Agents of Court, and examined and certified by Examiner of Extracts and Keeper of Judicial Records.

Abolition of Offices of Lords' Clerks

14. That on vacancies occurring in any of the offices of the Lords' Clerks, including the Clerks to the Lords President of the First and Second Division, who are also Keepers of the Inner-House Rolls, they shall not be filled up, and the ordinary duties which have hitherto been discharged by the said Lords' Clerks shall, after

after the dates of such vacancies, be performed by the Assistant Clerks of the Inner and Outer-House and Macers as hereinbefore and after directed.

V.

Macers, 11 Geo. 4, c. 69, 1 Will. 4, c. 69, s. 13.

WHEREAS by an Act of the eleventh year of his late Majesty King GEORGE the Fourth, and first year of His present Majesty, Chapter Sixty-nine, Section Thirteen, it was "Provided, that as vacancies occur in the office of Macer, the number of Macers shall be reduced, so that they shall not exceed the number of Macers officiating exclusively in the Court of Session at the passing of this Act," that is, the number of Seven: And whereas the duties of the Macers of the Courts of Session and Justiciary as presently performed are very trifling, and may be usefully increased, and that it will require a greater number than Seven Macers to perform the cumulate duties of their office in the Courts of Session, Teinds and Justiciary; BE it Enacted, That the Three following regulations, with regard to the number and duties of the said Macers shall be observed:

Regulations as to number and duties of the Macers.

1. That the Thirteenth Section of the said recited Act of the eleventh of His late Majesty King GEORGE the Fourth, and the first of His present Majesty, in so far as regards the number of the Macers, as above recited, shall be and is hereby Repealed.

Repealing 11 Geo. 4. and 1 Will. 4, c. 69, s. 13.

2. That the number of the Macers in the Courts of Session, Teinds and Justiciary shall be *Nine*, who shall discharge the duties of Macers in the said Courts, so soon as the present number of Macers shall be reduced to *Nine* by vacancies, which shall not be filled up.

Number of Macers to be Nine.

3. That the duties of the whole Macers in the said Courts shall be as follows:—First, One Macer shall be attached to and obey the orders of each Lord Ordinary in the Outer-House, and call his rolls from *Nine* to *Eleven* of the clock in the morning, every sederunt day of the Court, and during the sittings in time of Vacations and Recess: Secondly, Each of the other *Six* Macers shall attend on the same day, and during such time as may be necessary, on each of the Depute and Assistant Clerks in the Outer-House, and call the roll of the Depute Clerks, and obey their orders: Thirdly, Each of the said *Six* Macers shall also attend on the Depute and Assistant Clerks at the Register House, between *Two* and *Three* of the clock in the afternoon, and carry processes, papers or messages, from such Clerks to the houses of the Lords Ordinary of the Outer-House, or Judges of the Inner-House; and each of the Macers so employed shall bring back to the said Clerks, at their Offices in the Register House, between *Six* and *Seven* of the clock in the evening, any processes, papers or messages that may be returned by the

Duties of the Macers.

Judges to the Clerks; and each of the said Macers, on the same evening, shall again attend at the Judges' houses, before *Nine* of the clock in the evening, with processes, papers or messages from the Clerks, if necessary: Fourthly, Each of the other *Three* Macers shall call at the houses of the Judges of the Division to which he is attached, and carry their printed papers or processes, boxed that forenoon, and call in the morning of each day on each of the Judges, and carry their printed papers and the processes to the Court before *Eleven* of the clock in the morning during the sittings of the Court in the Sessions and Vacations, and attend each Division of the Inner House, call the Rolls while the Court is sitting, and obey the orders of the Judges: Fifthly, A sufficient number of the Macers shall attend the Judges in the Court of Justiciary, and discharge all the duties of the Macers, during Session and Vacations, and Christmas Recess; and the Macers who go on the Circuits shall be paid the usual allowance for travelling charges.

VI.
Duties of Door-keeper of Court of Session.

And be it Enacted, That the Door-keeper of the Court of Session, on a vacancy in his office taking place, shall be appointed by His Majesty, His heirs and successors; and the present Door-keeper of the said Court and his successor in office, besides his other duties, shall obtain from the Assistant Clerks, the Rolls of the Inner-House and Outer-House, and put them out on the boards of the Outer-House and lobby of the Register-House, as regulated; and the said Door-keeper shall further obtain from the Assistant Clerks the Rolls of the Depute Clerks of the Lords Ordinary, and put them out on the tables aforesaid, as regulated; and from and after the commencement of this Act the said Door-keeper, or the Door-keepers of the Court of Teinds or High Court of Justiciary, including the Circuit Court, or other persons acting or assisting as Door-keepers of any of the said Courts, shall no longer exact any Fees from the Suitors or Agents of the said Courts, or Visitors, or any other persons whatever for admission into the said Courts.

VI
Appointment of Crier in the Outer-House of the Court of Session.

And be it Enacted, That the Crier of the Outer-House of the Court of Session, on a vacancy taking place in the office of the present Crier, shall be appointed by His Majesty, His heirs and successors, and from and after the commencement of this Act, the Crier aforesaid for the time being shall not exact any Fees whatever from the Agents of Court or other persons for the discharge of his duty.

VIII.
Removal of Subordinate Officers.

And be it Enacted, That in all cases under this Act, where a subordinate officer is made subject to the will of a superior officer, and removable by him, such removal shall only take place on such subordinate officer being found guilty of disobedience to him, or of non-attend-

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ance or inaccuracy, such as to interrupt the affairs of his office without due and unavoidable cause; and the cause of his removal shall be specified by the superior officer in the order for removal; and the party dismissed may bring such order under the review of any division of the Court within *Twenty-one* Days after the date of such dismissal, by a short note and declaration, which may be answered as in ordinary causes.

IX. Offices in Bill Chamber abolished.

And be it Enacted, That the offices of Principal, Depute and Assistant Clerks, and of Keeper of the Register of Abbreviates of Adjudication in the Bill Chamber, shall be and are hereby Abolished; and the following Regulations, being Two in number, shall be observed:

1. That the Register of Adjudications shall be kept separately by the Keeper of the General Register of Sasines. Register of Adjudication to be kept by Keeper of Register of Sasines.

2. That the receipts for consigned money, loosing Arrestments in Suspensions or other procedure, shall be received by the Depute or Assistant Clerks in the Outer-house, and by them be lodged in the hands of the Senior Principal Clerk of Session: Custody of Bonds and Money.

X. Of the Court of Teinds.

AND whereas it is expedient to regulate the proceedings of a judicial nature carried on before the Lords Commissioners for Plantation of Kirks and Valuation of Teinds; BE it Enacted, That the following Regulations, being Five in number, shall be observed in the Teind Court:—

1. That all actions for the valuation and sale of Teinds, or actions of proving the tenor of the same, all actions of suspension or reduction of localities, and all actions of declarator or reduction connected with Teinds, which can at present be brought before the said Lords Commissioners for the Plantation of Kirks, shall be brought, in the first instance, before the Junior Lord Ordinary, until a vacancy occurs in the office of Junior Lord Ordinary, and thereafter before the Junior Lord Ordinary of any of the three Divisions of the Court of Session; and all such causes shall be proceeded in, as nearly as possible, according to the forms prescribed for the preparation of ordinary actions in the Court of Session; and the Depute Clerks of Session and the Junior Lords Ordinary shall have the same power in the preparation of the cause, where appearance is made, or in causes in absence, as they respectively have in the Outer-House in ordinary actions before the Court of Session; and the interlocutors of the Lords Ordinary shall be subject to review in the Inner-House in manner directed in causes before the Court of Session: Provided, That the jurisdiction of the Lords Commissioners for Plantation of Kirks and Valuation of Teinds, in assigning or modifying competent stipends to the parochial clergy out of the Teinds of the parish, and in uniting and dis- Procedure in Actions of Valuation and Sale of Teinds, Actions of proving the Tenor, suspensions or reduction of Localities, and Declarator or Reduction connected with Teinds. Proviso as to Jurisdiction of the Court of Teinds of a ministerial nature.

joining parishes, and generally whatever jurisdiction the said Court of Teinds may possess of a ministerial or discretionary nature, shall nowise be altered or affected by this Act; but the same shall continue to be exercised by the whole Lords Commissioners for Plantation of Kirks and Valuation of Teinds, or quorum thereof, as heretofore; but all actions in relation to localling of modified or augmented stipends among heritors, and other causes, which may be remitted by the said Lords Commissioners to a Lord Ordinary, shall thereafter be conducted, as nearly as may be, according to the forms prescribed for ordinary causes before the Court of Session; and the interlocutors of such Lord Ordinary shall be subject to review by the Division of the Court of Session to which he belongs, which Division shall to that effect be held as a quorum of the said Commissioners; and the judgment of such Division shall be subject to the review of the other two Divisions of the Court, and of the House of Lords, in the same manner as is provided with regard to ordinary actions in the Court of Session.

Clerks of Court of Session to act in Teind Causes, as in Ordinary Actions, assisted by the Teind Clerk.

2. That in all the foresaid actions, and in all other matters connected with Teinds, the Depute and Assistant Clerks in the Outer-House, and Principal and Assistant Clerks in the Inner-House, shall act as in ordinary actions before the Court of Session, being assisted, where necessary, by the Teind Clerk or his Depute; and the Lord Ordinary, or Inner-House of any of the Divisions, may remit Teind Causes to the Teind Clerk, and require him to report to the Lord Ordinary, or the Inner-House, on all matters remitted to him.

Appointment of Depute Clerk of Teinds.

3. That the Principal Clerk of Teinds, with the approbation of the Lords President of the three Divisions of the Court of Session, may appoint a properly qualified person, being an accountant, who has been *Three* Years in practice, to act as a Depute Clerk of Teinds and Extractor; and the said Principal Teind Clerk may remove the said Depute Clerk and Extractor, on cause shown by him to the said Lords President of the three Divisions.

Duties of Principal Clerk of Teinds.

4. That the Principal Teind Clerk shall give personal attendance at every sitting of the Court of Teinds in any of the Divisions, or sitting of the two Divisions, or of the whole Court, and attend at the office to sign states of Teinds, schemes of locality, and extracts of decrees; and in general he shall be answerable for the sufficient discharge of every duty belonging to his office, including the duty of the Depute Clerk.

Duties of Depute Clerk.

5. That the Depute Teind Clerk and Extractor shall attend the junior Lord Ordinary, or the three junior Lords Ordinary, and Clerks in the Outer-House, in Teind Causes, and assist the said Outer-

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Outer-House Clerks in such causes, if necessary, and duly transmit all Teind processes to the Clerks of the Court of Session, on the day such processes are enrolled to come before the Divisions of the Inner-House, or Lords Ordinary, and which shall be entered in a Transmission Book, and receive back such processes, and prepare, under the direction of the Principal Clerk of Teinds, the different states and schemes which it is necessary to frame in the course of actions of valuation and sale of teinds, or of modification and locality of stipends, and frame, give out and record Extracts of the Decrees of Court, and receive, and lend out and transmit processes and papers in Teind Causes.

XI. Regulations as to the Clerks and Officers of the High Court and Circuit Courts of Justiciary.

AND whereas his late Majesty King George the Fourth, when acting as Prince Regent, issued a Commission under his Royal Sign Manual, dated the Eighth of February One thousand eight hundred and Fifteen, for inquiring into the duties, salaries, fees and emoluments of the several Officers, Clerks and Ministers of Justice of the Courts in Scotland: And whereas the Commissioners so appointed, by their Fifth Report, dated Fifteenth August in the year One thousand eight hundred and Eighteen, made several valuable suggestions: And whereas it is expedient to carry into effect these suggestions, and other improvements which experience has suggested; BE it Enacted, That the following Seven Regulations shall be observed with regard to the appointments and duties of the Clerks and Officers of the High Court of Justiciary, and Circuit Courts of Justiciary, in Scotland:

1. That on a vacancy occurring in the office of the present or any future Principal Clerk of Justiciary, His Majesty, and His heirs and successors, may appoint a properly qualified Person, being a Member of the Faculty of Advocates, or of the Societies of Writers to His Majesty's Signet, or Solicitors of the Supreme Courts, who has been *Seven* Years in actual practice, to be Principal Clerk of Justiciary, with power to exercise all the duties of the office which have been hitherto discharged by the Principal Clerk of Justiciary, or his Depute and Assistant. Principal Clerk of Justiciary.

2. That the said Principal Clerk may appoint one person to act as his Assistant Clerk and Extractor, who shall be subject to his directions, and shall not engage in any other business. Assistant Clerk and Extractor

3. That the present office of Depute Clerk of Justiciary shall be and is hereby Abolished from and after the commencement of this Act; and neither the present nor any other Principal Clerk of Justiciary shall appoint at any future period a Depute Clerk. Office of Depute Clerk abolished.

4. That the whole duties of the Principal Clerk of Justiciary, on a vacancy occurring in his office, and a successor to him being appointed, Duties of Principal and Assistant Clerk to be performed in Person.

appointed, and the duties of his Assistant Clerk and Extractor of Justiciary shall be performed in person; and the Principal Clerk shall be responsible for the proper discharge of the whole duties heretofore performed by the Depute or Assistant Clerk and Extractor, and which shall in future be performed by the said Principal and Assistant Clerk and Extractor as aforesaid.

Present Offices of three Macers of Justiciary abolished.

5. That the offices of the Three Macers of the High Court of Justiciary, on vacancies in their offices, shall be and are hereby Abolished.

Duties of Macers of Justiciary to be performed by Macers of Court of Session.

6. That the duties of the Macers of the High Court of Justiciary, heretofore discharged by the said Macers, shall in future be performed in rotation by the whole of the Macers of the Court of Session, without prejudice to the present Three Macers of Justiciary continuing to assist the Macers of the Court of Session in discharging their duties in the different Courts, until, by vacancies, the whole number of Macers shall be reduced to *Nine*.

Clerks to Circuit Courts of Justiciary.

7. That on any vacancy occurring in the office of any of the Clerks to the Circuit Courts of Justiciary, His Majesty, His heirs and successors, may appoint a proper qualified Person, being a Member of the Faculty of Advocates, or the Society of Writers to the Signet, or of the Incorporated Society of Solicitors before the Supreme Courts, who shall have been Years in practice, to succeed to and discharge the duties of such office; provided that, in case of the temporary indisposition of any of the said Circuit Clerks, the Judges of the Court of Justiciary, or any one or more of the said Judges, may appoint a temporary Clerk, to discharge the duties of the Clerk of the Circuit Court who shall be so indisposed, for such time as may be necessary, or until his recovery, or a vacancy shall take place in his office.

XII.

Fee Fund and other Fees levied from the Suitors on Proceedings in the Court of Session, Teinds and Justiciary, abolished. 50 Geo. 3. c. 112. s. 20. 1 & 2 Geo. 4. c. 38. s. 8, 14, 15, 16, 28, 29, 30 & 31. A. S. 19 June 1821. A. S. 20 Feb. 1833.

AND whereas the Fee Fund Dues levied upon the proceedings in the Court of Session in terms of the said recited Act, the fiftieth of his late Majesty King George the Third, and the relative Schedule, intituled, "Dues of Court," and other Acts of Parliament, and Acts of Sederunt, and the Fees and Dues of the Assistant Clerks in the Outer-House of the Court of Session, and other Clerks and Officers in the Courts of Session, Teinds and Justiciary, tend to a denial of Justice, and are oppressive on the Suitors in said Courts, and ought not to be further exacted; BE it Enacted, That so much of the said recited Act as relates to the said Dues of Court, and of the said Act, the first and second of his late Majesty King George the Fourth, and relative Act of Sederunt, dated the Nineteenth day of June, One thousand eight hundred and Twenty-one, enacted in virtue of the last-mentioned Act of Parliament,

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ment, and so much of the last-mentioned Act of Parliament and Act of Sederunt as relates to the Dues of Clerks and Depute Clerks of the Bills, Keepers of the Inner-House Rolls, Clerks of the Judges, Extractors and Macers, or other Clerks or Officers whatever of the Court of Session, Teinds and Justiciary, and Act of Sederunt, dated Twentieth of February One thousand eight hundred and Thirty-three, or other Acts of Sederunt, and the custom, or otherwise, by which any fees are levied, are hereby Repealed, and the said Fee Fund and the other Court Dues, and Fees of whatever description, shall not be levied in future from the Suitors upon any proceedings in the Courts of Session, Teinds and Justiciary.

XIII. Abolition of Offices of Collector and Accountant of the Fee Fund.

And be it Enacted, That the Offices of Collector and Accountant of the Fee Fund shall be and are hereby Abolished.

XIV. Fixed Salaries to Clerks and Officers of Courts of Session, Teinds and Justiciary.

AND whereas, by the First and Second Reports of the Commissioners appointed on the Eighth day of February One thousand eight hundred and fifteen, to inquire into the Duties, Salaries and Emoluments of the several Clerks and Ministers of Justice of the Courts in Scotland, it was recommended that certain Clerks and Officers of the Court of Session should be paid by fixed salaries, in full of all fees or emoluments to which they were respectively entitled: AND whereas the Clerks and Officers of the Courts of Teinds and Justiciary should be paid in the same manner; and it is expedient to carry the recommendation of the said Commissioners into effect; BE it Enacted, That the Annual Salaries after mentioned shall be paid by quarterly payments to the Clerks and Officers of the Courts of Session, Teinds and Justiciary respectively after named: To each of the present Principal Clerks of Session the sum of Pounds; to their *Three* First Assistants Pounds each; to *Three* Second Assistant Clerks to the said Principal Clerks, the sum of Pounds each; to the Depute Clerks of Session Pounds each; to their *Six* Assistants Pounds each; to the Principal Clerk of Teinds Pounds; to the Depute Clerk of Teinds Pounds; to the Principal Clerk of Justiciary, when the duties of his office are discharged in person, Pounds; and to the Assistant Clerk of Justiciary and Extractor, when the duties of his office are discharged in person, Pounds; to the Principal and Depute Clerks of Session, Teinds and Justiciary, an allowance of Pounds amongst them, for the usual and extra expenses of their offices; to each of the Auditors of Accounts of the First, Second and Third Divisions of the Court of Session, Pounds; and to a Clerk or Assistant to each of the said Auditors Pounds, and the sum of Pounds amongst them, for the expenses of their offices;

offices; to the Examiner of Extracts, and Keeper of the Judicial Records, the sum of Pounds, and to a Clerk or Assistant to him, the sum of Pounds; and to *Nine* Macers of the Court of Session Pounds each; and to the Short-hand Writer, or Clerk, who shall be employed to write the Declarations of parties, or depositions of havers, witnesses or parties, the sum of

all such Salaries and Allowances being in full of all fees or emoluments to which each or any of the said Clerks or Officers have hitherto been entitled; and which salaries and allowances shall be payable out of the monies made chargeable by the Acts passed in the seventh and tenth years of the reign of her Majesty Queen ANNE, with the fees, salaries and other charges allowed, or to be allowed, for keeping up the Court of Session, and other Courts in Scotland.

XV.

Regulations of Forms of Citation, Charges, &c. against Persons furth of Scotland.

And be it Enacted, That the Forms of Edictal Citations, Charges, Publications, Citations and Services formerly at the Market Cross of Edinburgh and Pier and Shore of Leith, as against Persons furth of Scotland, and afterwards, in the manner now practised, by delivery of a copy thereof at the Record Office of the Keeper of the Records, and printing the same periodically, shall cease and be discontinued; and in lieu thereof, all Edictal Citations, Charges, Publications, Citations and Services, at the Market Cross of Edinburgh and Pier and Shore of Leith, as against Persons furth of Scotland, shall be performed by delivering a copy thereof into a Box, to be provided and kept in the Lobby of the Register-House, Edinburgh, by the junior appointed Depute Clerk of Session, in the manner now practised in cases of citations or charges at the dwelling-house of a party not personally apprehended; and the date of the execution shall be held to be the date of the service by the Messenger or Agent of Court; and no execution of such service shall be returned by any Messenger or Agent of Court, but the date of service and subsequent publication in the Minute Book shall be certified by an Agent of Court on the principal writ or petition, or other warrant; and the said Junior Depute Clerk or his Assistant shall forthwith register in the Minute Book an abstract of the copy so delivered of all Edictal Citations, Charges, Publications, Citations and Services, exhibiting the time of service, the nature of the writ or petition, the names and designations of the parties, and the day against which the party shall be called on to give obedience or to make appearance; and the said Depute Clerk shall keep *Three* distinct and separate Registers or divisions of the said Minute Book; one for all Citations on Writs, or Summonses or Petitions, as against Persons furth of Scotland, to appear before the Supreme Civil Court; another for all Citations by virtue of Writs or Warrants of Supplement, to Persons residing furth of Scotland, to appear before any of the Sheriff or Burgh Courts of Scotland; a third for all Charges, Intimations and Publications to Persons furth of Scotland, given by virtue of Warrants for those purposes; and

Present Practice abolished.

To be registered and published in Minute Book.

Certificate of Publication in Minute Book.

Registers to be kept.

received; and at all times the said written Minute Book, containing the registers of such Writs or Summonses or Petitions, or other Warrants, shall be open to inspection; and the copies of such Writs or Petitions, or other Warrants, after the publication in the printed Minute Book as aforesaid, shall not be preserved longer than *One* Year: Provided, that where a Person, not having a dwelling-house in Scotland, occupied by his family or servants, shall have left his usual place of residence, and been therefrom absent during the space of *Forty* Days, without having left notice where he is to be found within Scotland, he shall be held to be absent from Scotland, and be charged according to the Forms herein prescribed accordingly.

When a Person shall be held as furth of Scotland.

XVI.

Minute Book.

WHEREAS the printed Minute Book of the Court of Session is at present printed and published by an Officer called the Keeper of the Minute Book, and an Assistant, both of whose services are paid by fees levied from the Suitors: And whereas it is expedient to discontinue the office of the Keeper of the Minute Book and his Assistant, and to abolish the said fees; and to provide that the Assistant Clerks in the Inner and Outer House shall in future keep, and get printed, and publish the said Minute Book; BE it Enacted, That the following Four Enactments shall be observed with regard to the present Keeper and his Assistant, and the keeping, printing and publishing of the Minute Book:

1. That the offices of Keeper of the Minute Book and of his Assistant be and are hereby Abolished.

Offices of Keeper and his Assistant abolished.

2. That the Principal, Depute and Assistant Clerks of Court shall insert the following matters in the written Minute Book of the Court kept by them, and a copy of which shall be printed by them: First, The Junior appointed Depute Clerk and his Assistant shall insert in the Minute Book the several abstract registers of all Edictal Citations, as particularly regulated by this Act: Secondly, Each of the Depute Clerks and their Assistants shall register a list of all Writs and Summonses, or Petitions and Applications brought into the Court of Session, showing the name of the Writ or Petition, the names and designations of the parties, the name of the Lord Ordinary, and the names of the Pursuer's or Petitioner's Counsel and Agent, according to the Partibus of those writs or petitions, distinguishing new actions when first registered, and when afterwards called: Thirdly, The Principal Clerks and their First Assistants, and the Depute Clerks and their Assistants, shall record short entries of all Acts and Decrees of Court: Fourthly, The Depute Clerks and their Assistants shall also record all Avizandums from the Outer to the Inner House, whether held to be made by Act of Parliament or by a Special Interlocutor: Fifthly, The Principal

Contents of Minute Book.

Clerks and their First Assistants shall notice refused Reclaiming Notes, by any of the Divisions of the Inner-House, on or without consulting the Judges of the other two Divisions of the Court; provided, that all Acts and Decrees pronounced in the Outer or Inner House, inserted in the Minute Book, may be extracted on the expiry of *Nine* Days from the publication of each Minute Book, excepting where the reading in the Minute Book is dispensed with by the Lord Ordinary or the Court.

How printed Minute Book shall be arranged and printed.

3. That each of the Assistant Clerks in the Outer and Inner House (with the exception of the Second Assistant Clerks in the Inner House), shall, weekly, by rotation, take charge of the arrangement and printing of the Minute Book; and, before *Ten* o'clock in the morning of the second lawful day preceding that on which the Minute Book is published, the other Clerks shall deliver to the Clerk acting for the time, First, A copy of the parts of the Minute Book kept in their offices, to be embraced in each part of the printed Minute Book, so to be published; and Second, Copy of the Partibuses left with them, when Summonses or Petitions are first registered, and for callings of actions; and the said Clerk acting for the time shall form the whole of these copies into Four Lists, to be printed in the Minute Book, under the heads of,—I. "EDICTAL CITATIONS;"—II. "NEW ACTIONS;"—III. "CALLINGS OF ACTIONS;"—and IV. "ACTS AND DECREES or VERDICTS," &c.; and the said Clerk shall cause two Copies of the List of Edictal Citations, new Actions, and Callings, to be also printed separately, and one Copy thereof placed on the Table of the Outer-House, and another Copy thereof on the Table of the Lobby in the Register-House, before *Ten* of the clock in the morning, on the day on which the Minute Book is published.

To be printed twice a week at the Public Expense, and Index made at end of the Summer Session.

4. That the Minute Book shall be printed at the public expense, and paid out of the same Monies, out of which the fixed salaries of the Clerks and Officers aforesaid are paid as herein before provided; and the Minute Book shall be ready for delivery in the Parliament House, on every Tuesday and Friday, at *Nine* of the clock in the morning during Sessions, and also during Vacations, at the office of one of the Depute Clerks, whose name shall be affixed to the Table in the Register House, within *Three* Days of each Box-day, and within *Three* Days after the last day of the Sittings in September; and a copy thereof shall be put into each of the Lords' Boxes by the Assistant Clerk acting for the time being; and a copy delivered gratis to every Advocate or Agent of Court, or Assistant Clerk, who may apply for the same; and at the end of each Summer Session, each Assistant Clerk shall furnish, on slips of paper, the names of parties in all edictal citations,

citations, and in the actions or procedure entered in the Minute Book, and meet with the other Assistants, and prepare an Alphabetical Index to the printed Minute Book, which shall be printed, and ready to be boxed and delivered as aforesaid, within *Ten* Days from the end of the said Summer Session; and a printed Minute Book and Index shall be bound up into a Volume, and preserved in the Office of each of the Depute and Principal Clerks of Session.

XVII. Treasurer to make Compensation in certain Cases

And be it Enacted, That if any Clerk or Officer, or other person of the Court of Session, Teinds or High Court of Justiciary, shall make application to the Lord High Treasurer of the United Kingdom of Great Britain and Ireland, or the Commissioners of His Majesty's Treasury of the United Kingdom for the time being, and shall show in a satisfactory manner that such Clerk or Officer or other Person has suffered, or will suffer, pecuniary loss from the effect or operation of any of the aforesaid regulations, the said Commissioners of His Majesty's Treasury shall consider the claim for compensation to such Clerk or Officer, and whether he was justly entitled to the emoluments levied by him, and also whether such Clerk or Officer has received any former compensation, or been appointed to any other office in the Court of Session or elsewhere, or has carried on any separate business; and they are hereby authorized and empowered, by warrant to be made and signed by them, to award to such Clerk or Officer or other Person such compensation as may equitably be due and equivalent to the loss sustained by the provisions of this Act, under deduction of the salary of any office in the Court of Session or elsewhere, to which the claimant may have been appointed or otherwise, as may be just, so that he may continue to receive such a sum as shall not be less than the salary and just emoluments of the office affected or abolished by this Act; and this either by the payment of a gross sum, or by way of annuity, payable out of the monies made chargeable by the Acts passed in the reign of her Majesty Queen ANNE, with the fees, salaries and other charges allowed for keeping up the Court of Session and other Courts in Scotland.

XVIII. Construction of Words used in this Act.

And be it Enacted, That whenever in this Act any words are used in the singular number only, which may require a plural interpretation, such words shall be construed to include the plural number.

XIX. Act may be repealed, altered or amended this Session.

And be it Enacted, That this Act may be repealed, altered or amended during the present Session of Parliament.

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5 WILL. IV.—Sess. 1835.

I.

A

B I L L

To improve the present system of the Court of Session, in Scotland, and regulate the Number, Powers and Duties of the Judges, Clerks and Officers of the said Court, and of the Courts of Teinds and Justiciary; also the Number and Duties of the Clerks and other Officers in the said Courts; and pay them fixed Salaries; and to abolish the Fee-Fund, and other Court Dues levied from Suitors.

(*Prepared and brought in by*
Mr. Robert Wallace and *Mr. Hume.*)

Ordered, by The House of Commons, *to be Printed,*
10 *June* 1835.

26 *June* 1835.

II.

A

B I L L

To improve and regulate the Forms of Process, and diminish the Delay and Expenses of Procedure in the Courts of Judicature in Scotland, and in Appeals from the Court of Session to The House of Lords.

[Note.—The Words printed in *Italics* are proposed to be inserted, and the blanks filled up, in the Committee.]

Preamble:

WHEREAS the Proceedings in Civil Causes in the Courts of Judicature in Scotland, and in Appeals from the Court of Session to The House of Lords, are attended with great delay, and are very expensive, and not sufficiently regulated:

And whereas several Reports by Select Committees of both Houses of Parliament and different Commissioners appointed by the Crown with regard to the system of the administration of Justice in Scotland, and experience have suggested various Improvements in the said Proceedings, in order to adapt the Administration of Justice to the present state of society in Scotland:

And whereas it is expedient, and would be for the evident utility of the Subjects within Scotland, that the evils in the practice and forms of Procedure in Civil Causes in the Courts of Judicature in Scotland, and in Appeals from the Court of Session to The House of Lords should be removed, and the Delay and Expenses of Law Proceedings diminished;

I. Commencement of the Act.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from the day of next, this Act shall take effect; and the provisions of the following Acts of Parliament, and Acts of Sederunt of the Lords of

Certain Acts Repealed in so far as specified or inconsistent with this Act.

Council and Session shall be and are hereby Repealed, in so far as hereinafter specified, or as inconsistent with or contrary to the Enactments contained in this Act; videlicet: The following Acts of the Parliament of Scotland: An Act dated seventeenth May in the year One thousand five hundred and thirty-two, or One thousand five hundred and thirty-seven, intituled, "The Chancellor, President, and Lordes of the Session to make the ordour how it sall be proceeded in their Session;" and an Act in the year One thousand five hundred and forty, intituled, "Ratification of the Institution of the College of Justice," in so far as power is thereby given, or supposed to be given, to the Lords of Session to enact Acts of Sederunt for regulating the forms of procedure in the Court of Session without the special authority of Parliament; an Act in the year One thousand five hundred and fifty-five, intituled, "Anent summoning of Persones passand foorth of the Realme," in toto; an Act in the year One thousand five hundred and fifty-five, intituled, "Anent the ordour for giving of Curatoures to Minors," in so far as the said Act appoints a copy of the Summons or Edict to be left or affixed "at the Mercat Croce of the head Burgh of the Schire quhair the said Minores hes their landes or gudes," and fixes the period of "nine days" as the Inducie for citing the next of kin and others to be appointed "Curatoures to Minors;" an Act in the year One thousand five hundred and fifty-five, intituled, "Anent the Warning of Tenants," in toto; an Act in the year One thousand five hundred and seventy-nine, intituled, "For punishment of Persones that contemnandly remaynes Rebelles and at the King's Horne," in so far as Letters of Horning are therein recognised or understood to be required, and in so far as the registration of such Hornings is required; an Act in the year One thousand five hundred and eighty-one, intituled "Anent Registration of Inhibitiones and Interdictiones," in so far as "Letters" of Interdiction and Inhibition are therein recognized, and required, or understood to be ordered, to be copied at full length into the Register, and in so far as the same are appointed to be "produced first to the Schireffe-Clerk of the Schire quhair the persone interdicted or inhibited dwellis and makis his residence," or "to the Clerke of the Schire quhair the saidis landes lyes," to be "insert in their Registers;" an Act in the year One thousand five hundred and eighty-four, intituled, "Ane Act anent the better Execution of Decreetes," in so far as "Letters alsweill" of Horning as "poynding," are thereby authorized to be directed; an Act in the year One thousand five hundred and ninety-three, intituled, "Decreetes given within burrowes suld receive execution be Letters of Horning," in so far as "Letters of Horning" are thereby authorized to be directed; an Act in the year One thousand six hundred, intituled, "All charges of Horning against Persons dwelland be North the Water of Die to be direct upon fiftene Dayes at the least," in so far as "Letters of Horning" are thereby authorized to be directed; an Act in the year One thousand six hundred and thirty-three, intituled, "Ratification

17 May 1532, or (1537) c. 43.
1540, c. 93.
1555, c. 32.
1555, c. 35.
1555, c. 59
1579, c. 75.
1581, c. 119.
1584, c. 139.
1593, c. 177.
1600, c. 25.
1633, c. 8.

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"Ratification of the act of Commissioun anent the Ministers Provisiones," in so far as "Letters of Horning and Poynding" are thereby authorized to be directed; an Act in the year One thousand six hundred and sixty-one, intituled, "Act for poynding upon Sheriffs and Commissars Decreets," in so far as "Letters of Poynding" are ordained "sicklike and in the same manner as Letters of Horning;" an Act in the year One thousand six hundred and sixty-three, intituled, "Act anent the discharging of Advocations for sums within Two Hundred Merks," in toto; an Act in the year One thousand six hundred and eighty-one, intituled, "An Act concerning Probative Witnesses in Writs and Executions," in so far as more than one Witness is required to the Writs and Executions of Messengers, and in so far as "Hornings" are therein recognized; an Act in the year One thousand six hundred and eighty-one, intituled, "Act concerning the Sale of Bankrupt Lands," in toto; an Act in the year One thousand six hundred and eighty-one, intituled, "Act concerning Bills of Exchange," in so far as "Letters of Horning" are thereby authorized; an Act in the year One thousand six hundred and eighty-five, intituled, "Act in favour of the Inhabitants of Orkney and Zetland," in so far as "Letters of Horning and Lawburrows" are therein recognized, and the period of "Forty days" is thereby fixed for executing the same, and Summonses against the inhabitants of Orkney and Zetland; an Act in the year One thousand six hundred and eighty-six, intituled, "Act ordaining all Executions to be subscribed by the Witnesses, without necessity of stamping," in so far as "Citations" and "Executions of Letters of Horning, Inhibition, and others whatsoever," are directed to be subscribed by "Witnesses;" an Act in the year One thousand six hundred and ninety, intituled, "Act regulating the Sale and Payment of Bankrupt Lands," in toto; an Article in the Regulations of the Session established in the year One thousand six hundred and ninety-five, in toto; an Act in the year One thousand six hundred and ninety-five, intituled, "Act regulating the Sale of Bankrupt Estates," in toto; and an Act in the same year, intituled, "Act anent Letters passing the Signet," in toto; an Act in the year One thousand six hundred and ninety-six, intituled, "Act for declaring Notour Bankrupts," in so far as "diligence by Horning and Caption" is required in the proof of Notour Bankruptcy; an Act in the year One thousand six hundred and Ninety-six, intituled, "Act for Registrating Summonses that shall be made use of for interruptions," in so far as it enacts, "That in time coming all Summonses made use of for interruption of prescription of real rights shall pass upon a Bill under the Signet, and contain all the grounds and Warrants on which it proceeds, and that the Summons and Executions thereof," be registrate in a particular Register; an Act in the year One thousand six hundred and ninety-six, intituled, "Act anent Aliments," in so far as a "libelled Summons" is required in actions of Aliment; an Act in the year One thousand six hundred and ninety-six,

1661, c. 29.
1663, c. 9.
1681, c. 5.
1681, c. 17.
1681, c. 20.
1685, c 43.
1686, c. 4.
1690, c. 20.
A. R. 29. April 1695, art. 26.
1695, c. 6.
1695, c. 40.
1696, c. 5.
1696, c. 19
1696, c. 21.
1696, c. 26.

ninety-six, intituled, " Act for settling of Schools," in so far as " Letters of Horning " are appointed to be directed at the instance of School-masters for payment of their stipends ; an Act in the year One thousand six hundred and ninety-six, intituled, " Act anent Inland Bills and Precepts," in so far as the same Execution is extended to Inland Bills of Exchange as was provided by the Act One thousand six hundred and eighty-one, chapter Twenty, to pass upon Foreign Bills of Exchange: And the following Acts of the Parliament of Great Britain: an Act passed in the twentieth year of the reign of His Majesty King GEORGE the Second, intituled, inter alia, " An Act for taking away and abolishing Heritable Jurisdictions in Scotland," in so far as by Section Thirty-eight thereof, Advocation to the Court of Session against final Judgments of the Sheriff Courts, inter alia, is extended to sums not exceeding the value of Twelve Pounds sterling; an Act passed in the fifth year of the reign of His Majesty King GEORGE the Third, intituled, " An Act to prevent the Inconveniences arising from the present method of issuing Notes and Bills by the Banks, Banking Companies and Bankers, in that part of Great Britain called Scotland," in so far as by Section Four of the said Act, " Letters of Horning " are recognized ; an Act in the twelfth year of his said Majesty King GEORGE the Third, intituled, " An Act for rendering the Payment of Creditors of Insolvent Debtors more equal and expeditious, and for regulating the Diligence of the Law by Arrestments and Poinding, and for extending the Privilege of Bills to Promissory Notes in that part of Great Britain called Scotland," in so far as by Sections One, Thirty-six, Forty-two and Forty-three thereof, diligence by Letters of Horning and Caption is referred to and recognized ; an Act in the twenty-third year of his said Majesty King GEORGE the Third, intituled, " An Act for rendering the Payment of Creditors more equal and expeditious in that part of Great Britain called Scotland, and for making perpetual so much of an Act made in the twelfth year of his present Majesty's reign as relates to Bills and Promissory Notes," in so far as by Sections One and Fifty-five of the said Act, Diligence of Horning and Caption is thereby recognized ; an Act of the forty-eighth year of his Majesty King GEORGE the Third, intituled, " An Act concerning the Administration of Justice, and concerning Appeals to the House of Lords," Section Five, in so far as the Duties of the Lords Ordinary in the Outer House and Bill Chamber are regulated; an Act of the fiftieth year of his Majesty King GEORGE the Third, intituled, " An Act for abridging the Form of extracting Decrees of the Court of Session in Scotland, and for the regulation of certain parts of the Proceedings of that Court," in so far as is contained in the Sections thereof enumerated on the margin hereof, in toto; an Act of the fifty-third year of His Majesty King GEORGE the Third, intituled, " An Act for the better Regulation of the Court of Session in Scotland," in so far as is contained in the Sections thereof enumerated on the margin hereof, in toto; an Act of the fifty-fourth year of his Majesty

1696, c. 36.

20 Geo. 2, c. 43, s. 38.

5 Geo. 3. c. 49. s. 4.

12 Geo. 3. c. 72. s. 1, 36, 42 and 43.

23 Geo. 3. c. 18. s. 1. and 55.

48 Geo. 3. c. 151. s. 5.

50 Geo. 3. c. 112, s. 1 to 5 inclusive, 7, 8, and from 10 to 12, 14, 15, 18, 19, 20, 22, 23, 24, 25, 26, 29 to 32, 44, 45, 46, 47, 48, 49, 50 and 51.

53 Geo. 3, c. 64, s. 1, 2, 3, 5, 6, 7 and 17.

Majesty King GEORGE the Third, intituled, "An Act for rendering the Payment of Creditors more equal and expeditious in Scotland," in so as is contained in Section Seven thereof, in toto; an Act of the first and second years of his late Majesty King GEORGE the Fourth, intituled, "An Act for establishing Regulations respecting certain parts of the Proceedings in the Court of Session, and in the Court of Commissioners for Teinds, and respecting the Duties, Qualifications and Emoluments of certain Clerks and other Officers of the said Courts," in so far as is comprehended in the Sections thereof enumerated on the margin hereof, in toto; an Act of the first and second years of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better Regulation of the Court of Admiralty in Scotland, and of certain Proceedings in the Court of Session connected therewith," in so far as is contained in the Sections thereof enumerated on the margin hereof, in toto; an Act of the sixth year of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better regulating of the Forms of Process in Scotland," in so far as is contained in the Sections thereof enumerated on the margin hereof, in toto: and an Act of the eleventh year of his late Majesty King GEORGE the Fourth, and the first year of His present Majesty, intituled, "An Act for uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland," in so far as is contained in Section Thirty-eight thereof, in toto; and the following Acts of Sederunt of the Lords of Council and Session, in toto; videlicet, Acts of Sederunt, dated nineteenth December One thousand seven hundred and ten; twenty-third November One thousand seven hundred and Eleven; Fifteenth June One thousand seven hundred and Thirty-eight; Tenth August One thousand seven hundred and fifty-four, intituled, "Anent the Expenses of Judicial Sales, and the ranking of the Creditors of the Estate so sold;" seventeenth January One thousand seven hundred and fifty-six, "for further regulating the Sale of Bankrupt Estates, and the ranking of the Creditors thereon;" fourteenth December One thousand seven hundred and fifty-six, intituled, "Anent Removings;" fifth March and first August One thousand seven hundred and eighty-nine; eleventh March and ninth July One thousand seven hundred and ninety-one (being two in number of the date first mentioned); tenth July One thousand seven hundred and ninety-two; thirteenth November One thousand seven hundred and ninety-three; eleventh July One thousand seven hundred and ninety-four; sixteenth January and tenth March One thousand seven hundred and ninety-eight; ninth June and ninth July One thousand eight hundred and three; seventh March and fourth July One thousand eight hundred and ten; eleventh March One thousand eight hundred and fourteen; nineteenth June One thousand eight hundred and twenty-one;

54 Geo. 3. c. 137. s. 7.

1 & 2 Geo. 4. c. 38, s. 5, 8. 11, 14, 15, 16, 17, 18, 19, 20, 23, 24, 25, 28, 29, 30 and 31.

1 & 2 Geo. 4. c. 39, s. 2, 3 and 4.

6 Geo. 4, c. 120, s. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 26, 27, 41, 50, 51, 52, 53, and 54.

11 Geo. 4. & 1 Will 4. c. 69, s. 38.

Acts of Sederunt.

twentieth February One thousand eight hundred and thirty-three; and eleventh July One thousand eight hundred and twenty-eight, the last ntituled, "Act of Sederunt for repealing certain Acts of Sederunt of date twelfth day of November One thousand eight hundred and twenty-five, and subsequent dates, passed for regulating the Forms of Process in the Court of Session, in pursuance of the Statute sixth GEORGE the Fourth, chapter One hundred and twenty, for consolidating the Enactments contained in said Acts, and also for further improving the Forms in said Court;" and all other Acts of the Parliaments of Scotland or of Great Britain, and Acts of Sederunt, enacted by the Court of Session in Scotland, in so far as the same may be inconsistent with or contrary to this Act: Providing and declaring, That all the Provisions of the foresaid Acts of Parliament and Acts of Sederunt, not hereby expressly repealed, and in so far as not inconsistent with or contrary to the Enactments of this Act, shall continue in so far as at present in full force, until altered and repealed by Parliament.

Acts to remain in force in so far as not inconsistent with this Act.

II.

REGULATIONS AS TO WRITS OR SUMMONSES, including Arrestments or Inhibitions, Reclaiming Notes, Writs of Suspension, and Petitions, and the Inducia in such Actions before the Court of Session.

And be it Enacted, That the following Regulations, being twenty in number, shall be observed in the case of Writs or Summonses, including Warrants of Arrestment and Inhibition, Reclaiming Notes against Judgments of the Sheriff, Burgh or other Local Courts, to the Court of Session, Writs of Suspension, or of Suspension and Interdict, or Suspension and Liberation, and Petitions, or otherways, for Parties to appear in the Court of Session in all Actions and Applications, including Ordinary, Extraordinary, and Summary Actions, and Jury, Maritime, and Consistorial Actions (except in certain applications under the Bankrupt Act); and the Inducia in such actions as shall be brought before them:

Form of Writs or Summonses.

1. That Writs or Summonses, whether in Ordinary, Extraordinary, or Summary Actions, including Jury, Maritime, and Consistorial Actions, shall not contain any statement of the facts on which the Action is founded; and shall be limited to the conclusions of the particular Action, as the Pursuer shall, by the Law and Practice of Scotland, be entitled to deduce from the facts set forth separately in a Declaration, as hereinafter provided, and a Warrant to cite or summon the Respondent or Defender to appear in Court; and such Writs or Summonses shall be framed, and the formal parts printed, according to the Forms Numbers I. and II. contained in the Schedule (A), hereto annexed; and such Writ shall form the first step of the Record.

Form of Warrant for Edictal Citations.

2. Provided, That the Will of all Writs or Summonses, or the Prayer of Petitions, where it may be necessary to cite the Respondent as furth of Scotland, shall be conceived, so far

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as regards such Respondent, in the following terms: "Summon, warn, and charge the said Respondent, personally or at his dwelling-place or place of business, if within Scotland," et cætera, "or if furth of Scotland by delivering for him a copy hereof into the Box placed in the Lobby of the Register House, Edinburgh, kept by the Junior appointed Depute Clerk of Session in terms of the Statute thereanent," et cætera; and if the Respondent be a Minor, the following words shall be added: "And also the Tutors and Curators of the Respondent if he any have, for his interest, by a notice inserted in the Newspaper" [or a Newspaper reputed the most widely circulated in the town, district, or neighbourhood of the Market-cross of the head burgh of the Shire in which the Minor has his lands and goods], "if he be within Scotland; and if he be furth thereof, by delivery for them of a copy hereof into the said Box in the Lobby of the Register House, Edinburgh, kept by the said Junior Depute Clerk of Session," and in either case upon the same Induciæ as required for the said Minor himself: And the same form of words, mutatis mutandis, shall be adopted in all other Writs, or Extracts of Decrees, containing Warrant of citation, or charge, or publication, or Warrant of service against persons furth of Scotland; and in all cases in which one and the same Writ shall be executed at one and the same time against two or more persons as furth of Scotland, the execution shall be made by delivery into the said Box kept by the said Depute Clerk of one copy only, provided that such copy shall bear upon its face, that it is delivered for all and each of such persons.

Separate Warrants of Arrestment or Inhibition, or of Arrestment and Inhibition.

3. That where Warrants of Arrestment or Inhibition have been omitted in the Writ or Summons, or where there is a Petition, or a liquid ground of debt whether registered or not, the Warrant of Arrestment or Inhibition, or Arrestment and Inhibition conjoined, on the dependence of the Writ or Summons, or Petition, or on a liquid ground of debt, may be issued separately from the Writ or Summons, or Petition, and granted on production to the agent who signs the warrant, of the depending Writ or Summons, or Petition, or of the liquid ground of debt, which shall be mentioned in the Warrant by the agent who signs the same as follows: "Because the depending Writ or summons" [or, Petition] "has been produced;" or, "Because the Bill" [Bond, or other liquid ground of debt] "has been produced;" and provided, that there shall be no execution of Inhibitions at the Market-cross against the Lieges for publication, but only against the Debtor himself; and the Inhibition shall be in force and effectual against third parties only from the date of the registration thereof in the General Register of Inhibitions,

Inhibitions not to be executed for publication but only against the Debtor.

Inhibition to be effectual against third Parties from date of Registration.

Warrants of Arrestment and Inhibition not to include Interest or Expenses subsequent to the date of the Writ or Summons, or Warrant.

Inhibitions, any law or practice to the contrary notwithstanding; and further provided, that Warrants of Arrestment and Inhibition shall not be lawful on any depending Action, in so far as such Action concludes for interest and expenses subsequent to the date of the Writ or Summons in the Action, or for interest, being due *ex lege* on a liquid ground of debt, in so far as relates to interest subsequent to the date of the Warrant.

Arrestments, Inhibitions, or Warrants de meditatione fugæ founded on dependence of actions of Damages not lawful.

4. AND whereas instances have frequently occurred of Arrestment and Inhibition having been raised, and Warrant de meditatione fugæ obtained on the dependence of an Action founded on frivolous grounds, and concluding for large unliquidated sums in name of damages and expenses, and executed against the Respondent in the action for the malicious and oppressive purpose of locking up in the hands of third parties his whole moveable funds and effects, and also attaching his heritable estate, and thus hurting his credit and character as a solvent and responsible person, or depriving him of his personal liberty; and it is expedient to prohibit such improper and oppressive proceedings; BE it therefore Enacted, That no Arrestment or Inhibition shall be raised or executed to any extent, nor any Warrant de meditatione fugæ granted, or executed, founded on the dependence of any action, either before the Supreme or Local Courts of Scotland, concluding for random or unliquidated sums in name of damages and expenses.

Short Reclaiming Note to be used in place of Advocation, but Writs of Suspension, and of Suspension and Interdict, and Suspension and Liberation to be used.

Reclaiming Note to be narrated in Inhibition where it was formerly necessary to narrate an Advocation of a depending Action.

5. AND whereas by the said recited Act of the sixth year of his late Majesty King GEORGE the Fourth, Chapter One hundred and twenty, Section Forty-one, a certain form of a Bill of Advocation is provided: AND whereas that form is unnecessary; BE it Enacted, That where the form of Bills or Letters of Advocation against Interlocutory or Final Judgments of the Sheriff and other Local Courts was formerly competent, a short ReclaimingNote to the Court of Session in the form hereinafter regulated shall in future be used; and such Reclaiming Note shall be narrated in a Warrant of Inhibition, where it was formerly necessary to narrate an Advocation of a depending Action in Letters of Inhibition; and such Reclaiming Note shall be viewed in all other respects as coming in place, and entitled to all the effects of a Bill, or Writ, or Letters of Advocation; but Writs of Suspension either against Extracted Decrees of the Local Courts, or Charges or threatened Charges, in virtue of Registered Documents, or Suspensions originating in the Court of Session, or in Suspension and Interdict, or Suspension and Liberation, shall in future be used and framed, and the formal parts printed, according to the Forms Numbers III. IV. V. and VI. hereto annexed, and the citation on all Writs

or

or Petitions, to appear before the Court of Session or the Sheriff Courts, shall be in the Form Number XVI. in Schedule (A.) hereto annexed; provided that in the case of a Writ of Suspension, or a Writ of Suspension and Interdict, or of Suspension and Liberation, originating in the Court of Session, where there has been no record in the Local Court, the statement on which the suspension is founded shall be made in the form of a declaration as hereinafter directed; but in case of a Reclaiming Note against an Interlocutory or final Judgment or a Writ of Suspension of an extracted decree of any Local Court where a record has been made and closed in the Action, the Party reclaiming or Suspending shall not lodge any declaration along with the Reclaiming Note or Writ of Suspension, but shall merely produce the original process or obtain a warrant to transmit the same, and, if necessary, lodge an additional note of Pleas in Law, except in the case where it is alleged that the record has been improperly completed, as hereafter provided.

Declaration where necessary.

Where not competent.

6. AND whereas by the said recited Act of the fiftieth year of his Majesty King GEORGE the Third, it is enacted, "That Bills of Advocation from the Sheriffs and other inferior Judges in Scotland, against interlocutory judgments, shall be allowed only upon the following grounds: First, Of incompetency, including defect of jurisdiction, personal objection to the Judge, and privilege of party; Secondly, Of contingency; Thirdly, Of legal objection with respect to the mode of proof, or with respect to some change of possession, or to an interim decree for a partial payment, provided that in the cases specified under this third head, leave be given by the inferior Judge: AND whereas, according to the present practice, when Bills of Advocation are presented to the Court of Session against Interlocutory Judgments, in terms of the above Act, the Bill of Advocation contains a loose statement of the grounds of Advocation which is not submitted to the Sheriff or other Courts: AND whereas the said statement should, in the first instance, be made in these Courts; BE it Enacted, That where a party is desirous to present a Reclaiming Note in place of an Advocation to the Court of Session, against an Interlocutory Judgment in terms of the Act above recited, he shall state, in a note of Appeal to the Principal Sheriff, his intention to present such a Reclaiming Note to the Court of Session and the grounds of reclaiming, and which the opposite Party may be allowed to answer; and the Principal Sheriff may either alter or affirm the interlocutor appealed against; or, where the ground of reclaiming is contingency, he may remit the process to be conjoined by the Lord Ordinary or

Reclaiming Note in place of Advocation against Interlocutory Judgments in terms of 50 Geo. 3, c. 112, s. 36.

the Division of the Court of Session with the previous process depending in the Court of Session; and where a Reclaiming Note against such Interlocutory Judgment shall afterwards be presented to the Court of Session, there shall not be included in the Appendix, or separately produced any declaration, stating the grounds of Reclaiming, except a copy of the Note of Appeal to the Sheriff, and the answers, if any; but an additional Note of Pleas in Law may be lodged, as in other cases, and the Form of the said Reclaiming Note shall be similar to the Form hereinafter provided of a Reclaiming Note, against an Interlocutory Judgment of the Lord Ordinary to the Court of Session.

Sect. XXXI. part 3.

Reclaiming Note in place of Advocation of Brieves.

1 & 2 Geo. 4, c. 38, s. 11. Declaration.

7. That instead of the Form of Advocation of Brieves, as authorized by the said recited Act of the first and second years of the reign of his late Majesty King GEORGE the Fourth, Chapter Seventy-eight, Section Eleven, a Reclaiming Note shall be used as in other cases against final Judgments of the Sheriff; provided that the declaration on which it is founded shall be appended to the Reclaiming Note, and shall be framed, and the same course of procedure in the preparation and closing of the Record, and determining the cause, followed as nearly as possible, as hereinafter provided in the case of ordinary Actions.

Form of Petitions.

8. That every Petition to the Court of Session in ordinary cases shall be in the form Number VII. of Schedule (A.) hereto annexed, and shall contain a prayer, with reference to the facts stated in a separate declaration, and such Petition shall be registered in the Minute Book, and a copy served, without requiring a special Warrant of service, like the service of a Writ or Summons; and every Petition to commence a Process of Cessio Bonorum shall be in the form Number VIII. of Schedule (A.) annexed, and shall be executed without a special Warrant of Service; and every Petition to commence a Process of Ranking and Sale shall be in the Form Number IX., and executed without a special Warrant of Service.

To be framed and signed by an Agent of Court.

9. That such Reclaiming Notes, Writs, and Petitions in the case of Actions, ordinary and summary, Suspensions, or otherways, including Jury, Maritime and Consistorial Actions, before the Court of Session, shall be framed and signed by an Agent legally entitled to practise in such Court, comprehending Members of the Society of Writers to the Signet and of the Incorporated Society of Solicitors, Admiralty Procurators, entitled

entitled to practise in virtue of an Act of the first year of his present Majesty's reign, and Advocates' First Clerks; and the name of such Agent shall be marked on the back of the Reclaiming Note, Writ or Petition and Declaration and Copies thereof, and of the Schedules of Arrestment or Inhibition to be served. 1 Will. 4, c. 69, s. 28.

10. That, for the guidance of the Clerk to the Process, a Partibus, or List of Parties, shall be written by the Pursuer's Agent on the Reclaiming Note, Writ or Summons, or Writ of Suspension, or Petition, and which shall contain the name and designation of the Party reclaiming, Pursuer, Petitioner, or Suspender, if one or only two, or if more, the name and designation of the Party first named, with the words "and others;" and if the Respondents are not more than three, their names and designations, one or more, shall be inserted in the Partibus; but if more than three, the Partibus shall contain the name and designation of the Party first named, with the words "and others, as per Roll," referring to a separate roll of all the Respondents, which Roll, together with a copy thereof, shall at the same time be lodged with the Clerk to the process, and a Copy of the said Partibus, in plain legible writing, shall be lodged along with the Note, Writ, or Summons, or Petition, or Writ of Suspension; and there shall also be lodged an Inventory of the Process, to remain in the hands of the Clerk to the Process, and a Copy of the said Inventory to accompany the Process. Partibus.

11. That along with the Reclaiming Note, Writ or Summons, or Writ of Suspension, or Petition above mentioned, when first presented to the Clerk to the Process to be registered in the Minute Book, the Party reclaiming, Pursuer, Suspender or Petitioner shall lodge with the Note, Writ or Petition two separate sheets of foolscap paper, and on the margin of each shall copy the said Partibus, and one of which shall be intituled, "Minutes of Procedure and Interlocutors," and the other, "Copy of Minutes of Procedure and Interlocutors," and on the principal of which the Depute Clerk, or his Assistant, shall write a short entry of the date and production of each pleading or other step of procedure, and all orders of the Depute Clerk or of the Lord Ordinary; and the Principal Clerk, or his Assistant, in the Inner-House shall also write on the same sheet the steps of procedure and the Interlocutors of the Inner-House, signed by the Lord President of the Division; and on the "Copy Minutes of Procedure and Interlocutors," the Agent shall, from time to time, make copies of the principal Minutes of Procedure and Interlocutors, and which Copy shall always accompany Minutes of Procedure and Interlocutors.

pany the Process; and no such entries of procedure, and no such Orders or Interlocutors, shall be written on any other part of the Process; and the principal Minutes of Procedure and Interlocutors, along with the original Reclaiming Note, Writ or Petition, and Declaration and Productions by the Pursuer when first lodged by him, shall remain in the Clerk's hands, and not borrowed by him or his Agent, but the Respondent, or his Agent, may be allowed to see the same in the Clerk's hands, and to borrow the Pursuer's Productions; and the Depute Clerk, or the Lord Ordinary, or the Court, may pronounce any Order or Interlocutor at any time, which shall be written and signed on the principal Minutes of Procedure, although the Process may not be in the Clerk's hands: Provided that, before writing out any Interlocutor of the Lord Ordinary, or the Court, intimation shall be given by the Clerk to the Process, through the Post Office, to the Agent whose receipt stands for the Process, to return the Process to the Clerk within Twenty-four hours after the time of putting such Notice into the Post Office, and failing thereof, a caption may be issued and executed, to force back the same before signing the Interlocutor, and the Respondent's Copy of the Reclaiming Note, Writ and Declaration, and Copy Inventory of Writings, and Note of Writings which the Pursuer requires the Respondent to produce, and of Interrogatories for the Pursuer served on the Respondent, and Mandate by the Respondent to his Agent, shall, when he makes appearance, be lodged in process, and may be borrowed along with the Process.

Principal Minutes of Procedure and Interlocutors to remain with the Clerk.

Respondent's Copy of Writ, &c. to accompany the Process.

Actions to be divided equally amongst Clerks and Lords Ordinary, and their Names to be marked by Junior Depute Clerk, or his Assistant.

12. That all such Reclaiming Notes, Writs and Petitions, when first brought to be registered, shall be divided equally amongst the whole offices of the Depute Clerks of Session and Lords Ordinary, to be registered; and for this purpose, the name or mark of the Clerk, and the name of the Lord Ordinary to the Process, shall be stamped, marked or written on the Writ or Petition by the junior appointed Depute Clerk of Session, or his Assistant, before being registered by the Clerk to the Process.

Writs, &c. to be thereafter lodged with Clerk of Process.

13. That the said Reclaiming Notes, Writs or Petitions, and productions, together with the partibus and copies for service, shall then be lodged with the Clerk of Process; and the Depute Clerk to such Process, or his Assistant, shall forthwith enter and register the Reclaiming Note, Writ, or Petition in the Minute Book, under the general title of "New Actions."

Names of the Parties, Lord Ordinary, and

14. That the nature of the Reclaiming Note, Writ or Petition, and the names and designations of the Parties mentioned in such Note

Note, Writ or Petition, with the name of the Lord Ordinary, before whom the Action is to depend, and the Division to which he belongs, and the name of the Pursuer's Agent, shall be entered in a Register, to be kept by each of the Deputy Clerks of Session, or his Assistant; and the names of the Lord Ordinary and of the Pursuer's Agent, shall be marked by the Agent on the back of the Copy of the Writ and Declaration, and Schedules of Arrestment and Inhibition to be served; and the Depute Clerk, or his Assistant, shall mark the office name of the Clerk, and the date of registration, on the principal Writ and Copy to be served.

Pursuer's Agent, to be registered, and marked on the back of the Writ and Declaration.

15. That the original Writ shall not pass His Majesty's Signet at Edinburgh; and a Copy of the Writ or Petition in the Clerk's hands, certified by the Agent, who signed the Writ, or any other qualified Agent, shall be a legal Warrant for citing all Persons within Scotland, or furth thereof, to appear before the Court of Session, within such time as shall be hereinafter directed; and from the date of the said Registration, the Writ or Petition shall be held as fixed in the Clerk's Office, and as in dependence before the Lord Ordinary whose name is marked on the Writ, and the Division to which he belongs: Provided, That a Copy of the Writ and Declaration shall be served on the Respondent before either the Warrant of Arrestment or Inhibition, if any, contained in the Writ, shall be executed.

Certified Copy of Writ or Petition, a legal Warrant for Service.

Writ or Petition to be a depending Action from date of Registration, and Copy thereof, and of the Declaration to be served before using Arrestment or Inhibition.

16. That the said Writs and Petitions (except Warrants of Arrestment or Inhibition, which shall be executed by Messengers at Arms only), shall be executed by any of the said Agents of Court, or a Messenger at Arms; but in the case of an Agent of the Court executing the Writ or Petition the expenses thereof shall not exceed such sum as might at the time be lawfully charged for such business by a Messenger at Arms.

Writs or Petitions to be executed by an Agent of Court, or Messenger at Arms, but Arrestments by a Messenger at Arms only.

17. That the Warrant of Inhibition contained in the Writ or Summons, or separately granted on a depending Action or liquid ground of Debt, or in the Extract Decree of the Court of Session, or such Warrant following on the extract of a Protest of a Bill of Exchange or Promissory Note, or Bond, Contract or Instrument having a clause of Registration, and registered in the Books of Council and Session, or Sheriff or Burgh Court, and the date of such Writ or Warrant, the name of the Inhibiter's Agent, and of the Clerk's Office, and of the Lord Ordinary before whom the Process depended, where an Action depends or has depended in the Court of Session or Sheriff or Burgh Court, and so much of the Declaration relative to the Writ or Petition, or of the liquid

Short Entries of Abbreviates of Inhibitions and Executions to be inserted in General Register of Inhibitions.

liquid ground of Debt, as shall describe accurately the amount of the Debt (and no more) shall be recorded by a short Entry or Abbreviate, to be prepared and signed by an Agent of the Court of Session, or of the Sheriff or Burgh Courts, in the General Register of Inhibitions, according to the Forms of Abbreviate in the Schedule (G.) Numbers I. and II. hereto annexed; and it shall not be necessary to record in the said Register a full copy of the formal Warrant to Inhibit, or Executions of Inhibition.

Executions of Writ and Declaration by Messenger, &c. before one Witness, or more Witnesses.

18. That a Copy of such Writ or Petition, and of the Declaration, if any, shall be served on every Respondent, by delivering to him personally or, leaving at his dwelling-place, a Double or Copy thereof, in manner presently observed, and of the Inventory of Writings, if any, produced therewith, and Note of Writings called for from the Respondent, and of Interrogatories to be answered by him, (on pain of being found liable in the expenses of diligence for recovering the said Writings, if in his custody, and not produced by him, and of a proof of the facts, if within his knowledge and denied by him, and also of being obliged to appear personally in Court, and undergo a judicial Examination), with a Citation in the Form aforesaid, before one Witness or more Witnesses (excepting in applications for Sequestration, and for approval of Composition, and Discharges and Petitions for confirmations of Trustees under the Bankrupt Statute, and in Actions of Adjudications, Mails and Duties, Exhibition ad deliberandum, Choosing Curators, Transumpt, Wakening, Ranking and Sale, Multiple Poinding, Poinding of the Ground, and Furthcoming, the Writs in which may be executed by serving a copy of the Writ or Petition, without a copy of the Declaration, or of the Inventory of Writings and note of Writings and Interrogatories; but provided that a full Copy or Double of the Writ or Petition, and Declaration, Inventory of Writings and note of Writings and Interrogatories, shall be served on the Heritor in a process of poinding the ground, and on the common Debtor in a process of Ranking and Sale and of Forthcoming, and on the Holder of the fund in medio in a Multiple Poinding, where the Process is raised by a Claimant in the name of such common Debtor in a Ranking and Sale, or holder or nominal Pursuer in a Multiple poinding), if within Scotland, or if furth thereof, by delivering a Copy of such Writ into the Box in the Lobby of the Register House, Edinburgh, kept by the junior appointed Depute Clerk of Session, to be by him registered in the Minute Book, under the title of " Edictal Citations;" or if the Respondent be a Minor, by inserting a Notice to the Tutors and Curators of the Minor, if he has any, for his interest,

Except in certain Applications under the Bankrupt Act, and certain other Actions where a Copy of the Writ is sufficient.

of

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of the Action having been raised, in any widely circulated Newspaper published in the town or neighbourhood of the Market Cross of the Head Burgh of the County in which the Minor has his residence, if within Scotland, in which case, a Copy of the Newspaper shall be produced as evidence of the publication of the Notice; and if furth thereof, by the Edictal delivery for them of a Copy of the Writ or Petition, conform to the will of the Writ, as hereinbefore provided; and the Execution of service in every case shall be signed by such Messenger, or Agent, and one Witness or more Witnesses; and the Execution shall bear faith and not be challenged, unless set aside in a process of Reduction on the ground of falsehood, in which process the Pursuer before being heard shall consign in the Clerk's hands, or find Caution to the extent of *Ten* Pounds.

Copy of Writ or Summons and Declaration to be inserted in Register of Interruptions of Prescription. 1696, c. 19.

19. That on registering in the Register of Interruptions, a Copy of the Writ or Summons, and Declaration, framed in manner hereinafter prescribed, in place of a Copy of the Summons, in terms of the said recited Act of the Scots Parliament, in the year One thousand six hundred and ninety-six, hereinbefore partly repealed, the interruption of prescription, provided for by the said recited Act, shall be as effectual as if a copy of a Summons, according to the practice, which has hitherto been observed, had been inserted in the said Register.

Induciæ of Writs before the Court of Session.

20. That in all Writs for commencing ordinary or extraordinary Actions, or intimating summary Applications in the Court of Session, (except in applications for sequestration, applications for approval of composition, and discharge, and Petitions for confirmation of Trustees, under the Bankrupt Statute), or Reclaiming Notes against the Judgments, or Suspensions of the Extracted Decrees of the Local Courts, the Induciæ, with the exception aftermentioned, for citing Respondents or Defenders shall be *Eight* Days after the date of service in the ordinary case, and if they reside in the Hebrides, Orkney or Shetland, or furth of the Kingdom, *Thirty* Days after the date of service, except in processes of Ranking and Sale, in which the Induciæ shall be *Ninety* Days after the date of service.

III.

Regulations as to Formality and Execution of the Writ or Summons or Petition in the Sheriff and other Local Courts.

And be it Enacted, That the following Regulations, being fifteen in number, shall be observed in regard to the formality and execution of the Writ or Summons, or Petition, or Writ of Sist and Suspension in Actions before the Sheriff or other Local Courts, and the induciæ of such Actions in the Sheriff or Burgh Courts:

1. That

Form of Writs.

1. That every Writ or Summons for commencing any ordinary or summary Action before the Sheriff or other Local Court in Scotland, (except in small Debt Causes), shall contain the Conclusions of the particular Action as the Pursuer shall, by the law and practice of Scotland, be entitled to deduce from the facts set forth in the Declaration as hereinbefore and after provided; which Conclusions may be amended as in the Court of Session, if allowed by the Judge, on payment of such expenses as the Judge shall modify; and such Writ or Summons shall be written and the formal parts printed in the form contained in Schedule (A.) Number X. annexed to this Act.

Form of Petitions.

2. That every Petition to the Sheriff or other Local Courts, shall be in the form Number XII. Schedule (A.), hereto annexed, and shall contain a prayer, with reference to the facts as stated in a separate Declaration, as in the case of Writs or Summonses.

Form of Sist and Suspension in the Sheriff Court.

3. That the Writ of Sist and Suspension before the Sheriff Courts shall be in the form Number XIV. of Schedule (A.) hereto annexed, provided that no such Sist and Suspension shall be received by the Sheriff Clerk against an extracted Decree in absence of the Sheriff or other Court, unless on consignation of one guinea towards the expenses of extract, and of all manner of legal execution, as the same shall be taxed, and the amount of which taxed expenses shall be paid to the Agent of the Respondent out of the said sum, by the Sheriff Clerk, and the balance, if any, returned by him to the Suspender; but should the said sum not be sufficient to pay such taxed expenses, an interim Decree for the balance and the expenses of all manner of legal execution thereon shall be forthwith granted by the Sheriff against the Suspender.

To be framed and signed by an Agent.

4. That such Writ or Summons or Petition shall be framed and signed by an Agent legally entitled to practise before the Sheriff or other Local Court.

Sheriffs to grant Warrants of Concurrence, to cite Charge, arrest, inhibit, poind, open Doors, and imprison, where Debt above 10 *l.*

5. That Sheriffs may grant Warrants of Concurrence on the Writs or Summonses of, or Petitions to, or Decrees of other Sheriffs, or Magistrates of Burghs, or Justices of Peace in Scotland, to cite, charge, arrest, poind, open doors and imprison, where the Debt, exclusive of Interest and Expenses, amount to upwards of *Ten* Pounds, and also to inhibit where the Writ, or Summons, or Petition depends in, or the Decree and Warrant of Inhibition are granted by the Sheriff or Burgh Courts.

6. Provided

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6. Povided, That all such Warrants and Warrants of Concurrence, Citations, Charges, Arrestments, Inhibitions, where competent, Poindings, Open Doors, or Imprisonment, where competent, in terms of such Warrants, or Warrants of Concurrence on the Writs or Summonses, or Petitions or extracted Decrees of other Sheriffs or Magistrates, or Justices of Peace, or such other proceeding under and by virtue of such Warrants, shall be as effectual in every respect as the equivalent Writs were formerly in virtue of Letters of Supplement, Horning, Charge, Arrestment, Inhibition or Caption under His Majesty's Signet at Edinburgh; and the said Warrants of Concurrence shall be in the form, as nearly as may be, to that contained in Number XI. Schedule (A.) to this Act annexed.

Such Warrants and Warrants of Concurrence to be as effectual as Letters under the Signet formerly were.

Form of Warrants of Concurrence.

7. That in all Actions to which the Sheriffs or Magistrates of Burghs are at present competent, where the Respondents reside in different Counties or Burghs, the Action shall be instituted either in the Court of Session, or the Sheriff or Burgh Courts, in whose jurisdiction the greater number of Respondents reside; or if one or more Respondents shall reside in separate Counties or Burghs, then in the Court of Session, or the Sheriff, or Burgh Court, which shall be nearest to the residence of the greater number of the Respondents; or if there be two Respondents, each residing in a different County or Burgh, then in the Court of Session, or in the Sheriff, or Burgh Court, in whose jurisdiction either of the Respondents shall reside; and the other Respondent or Respondents, residing beyond the Boundaries of the Sheriffdom, or Burgh, before which any such Action is brought, shall be cited thereto, in virtue of a Writ of Supplement, under the authority of the Court of Session, or in virtue of a Warrant or Warrants of Concurrence, as aforesaid, granted by the respective Sheriffs, in whose jurisdiction such Respondents shall reside: Provided always, That all Orders, Interlocutors and Judgments pronounced in such Actions before the Sheriff, or Burgh Courts, shall be as binding on the Respondents, so called by Writ of Supplement or Warrant of Concurrence, as on the Respondent, residing within the limits of the jurisdiction of the Court before which such Action has been instituted; and all manner of diligence and execution shall competently follow thereon.

Citation of Respondents residing beyond the Jurisdiction of Local Courts.

8. That any Writ or Summons before the said Sheriff, or Burgh Courts, may, if required, contain Warrants of Arrestment or Inhibition, or a Special Interdict, until the further orders of Court; but such Interdicts shall proceed on a special Warrant of the Judge before issuing the Writ, upon considering the

Warrants to arrest and inhibit, or to interdict.

Declaration, but not, if possible, without hearing the Respondent in opposition; and provided that at any after period of the procedure, the Judge may, on cause shown, grant or recall such an Interdict relative to the matters in dispute, without any new Writ being taken out for that purpose; and in case of a Petition served, or a Bill, Bond, or other liquidate ground of debt, separate Warrants of Arrestments or Inhibition, may be granted and obtained under the authority of the Sheriff, or Burgh Courts, in like manner, as in the Court of Session, as hereinbefore provided.

To be executed by an Officer of Court, &c.

9. That the said Writ or Petition shall be executed by an Agent of Court, Officer of Court, or Messenger at Arms; but in the case of an Execution by an Agent of Court, the expenses thereof shall not exceed such sum as might at the time be lawfully charged by an Officer of Court if he had executed the Writ or Petition.

Service of Writ.

10. That such Writ or Petition shall be served on every Respondent, by delivery to him personally, or leaving at his dwelling-place, a Double or Copy thereof, and of the Declaration hereinafter

Exceptions.

mentioned, before one Witness, or more Witnesses, except in Actions of Wakening, Multiple Poinding, Transferences, Transumpts, Cognitions, Poinding of the Ground, and Furthcoming, Choosing Curators, and Writs or Summonses for Curators giving up Inventories; the Writs in which Actions may be executed by serving a Copy of the Writ only; but provided that a Copy of the Writ and Declaration hereinbefore and after mentioned shall be served on the Heritor in a process of Poinding the Ground, and on the Common Debtor in a process of Furthcoming, and on the Holder of the Fund in medio, in a process of Multiple Poinding, where the process is raised by a Claimant in the name of such Holder or Nominal Pursuer; or if the Respondent be a Minor, an Advertisement to the Tutors and Curators shall be inserted in any widely circulated Newspaper in the district or neighbourhood of the Market Cross of the chief Burgh of the Sheriffdom in which the Minor resides, and which Advertisement shall not be chargeable with any Duty; and the Citation and Execution of Service in every case shall be signed by such Agent, Officer, or Messenger, and one Witness, or more Witnesses; and the execution shall bear faith, and not be challenged, unless set aside in a process of Reduction on the ground of falsehood; which process of Reduction shall be competent before the said Sheriff or other Local Court; and in which process the Pursuer, before being heard, shall find Caution to the extent of *Five* Pounds, or consign a sum to that amount, to be forfeited in

Citation and Execution.

case

case he shall fail in said Reduction; and in the case of a Citation by Advertisement to Tutors and Curators of any Minor, a Copy of the Newspaper containing such Advertisement shall be produced as evidence of the publication thereby.

Not more than Six Respondents in one Writ.

11. That not more than *Six* Respondents on separate grounds of action shall be included in one Writ or Summons, or Petition, except in Actions of Multiple Poinding, Forthcoming, Mails and Duties, Poinding of the Ground, and Cessio Bonorum.

Partibus to be made on Writ, sheets of Interlocutors and Minutes of Procedure; and entered in Minute Book.

12. That the Names and Designations of the Parties mentioned in such Writs, Petitions, or Writs of Sist and Suspension, and the Names of the Pursuer's Agent, shall be legibly written on the margin of the Writ, or Petition, and entered in the Minute Book of the Sheriff, or other Local Court, and shall also be marked on the back of the Writ or Petition and Copy to be served; and a Copy, certified by a Law Agent of such Sheriff or other Court, of the said Writ, or Petition, shall after such entry in the Minute Book be a legal Warrant for citing all Persons within the jurisdiction of the Sheriff, or other Court to appear before such Sheriff, or other Court, within such time as shall be hereinafter directed; and for making such entry in the Minute Book, the same Fee shall be paid to the Sheriff Clerk, which was formerly allowed for signing a Summons, except in Jury, Maritime, Consistorial, or other Causes, not formerly competent in the Sheriff Courts; provided, that the Clerks of each Sheriff or other Local Court shall keep two Books, containing Alphabetical Indices of the Names and Designations of the Pursuers and Respondents in every Action registered in the Minute Book, the first Book to begin with the Names and Designations of the Pursuers in the first column, and the Names and Designations of the Respondents in the second column; and the second Book to begin with the Names and Designations of the Respondents first, and the Names and Designations of the Defenders next; and these Books of Indices shall be preserved and delivered over to the successors of such Clerks.

Indices of Names of Pursuers and Respondents in Actions to be kept.

Induciæ.

In ordinary and summary Causes.

13. That all Writs or Summonses for commencing Actions in the said Sheriff or Burgh Courts, whether of an ordinary or summary nature, shall contain only one diet of compearance, and *Six* free days shall intervene between the Days of citation and the day of compearance, except in cases of processes of Ranking and Sale, in which the Induciæ shall be *Ninety* Days, and in the cases after mentioned; and the day of compearance shall always be an ordinary Court day.

Maritime or other urgent Causes.

14. That in Writs of Sist and Suspension, maritime and other urgent Causes, the Induciæ shall be from *Forty-eight* Hours, or other period not exceeding *Four* Days from the date of service, according to the distance of the Respondent's Residence from the Court.

Writs in Supplement.

15. That in Actions raised before the Sheriff or other Courts of Scotland, where some of the Respondents reside in other jurisdictions, or furth of the Kingdom, but are amenable to the Courts before which the actions are raised, a Writ in Supplement, to cite such Respondents, shall be granted, in the Form Number XIV. in Schedule (A.) hereto subjoined, on an Induciæ of *Eight* Days in the ordinary case, or *Thirty* Days if in the Hebrides, Orkney or Shetland, (and the same Induciæ where the Respondents reside in other Jurisdictions, and are cited to appear in any Sheriff, or other Court, in the Hebrides, Orkney or Shetland); or *Thirty* Days, if furth of Scotland, on producing the original Writ of the Action before the Court and relative Declaration, without requiring a Bill to the Lords of Council and Session; and providing, that the Courts before which the Actions are raised, shall have power to consider and determine as to the competency of citing parties residing in other Jurisdictions, or furth of the Kingdom, to appear before such Courts; and which Writs of Supplement shall be registered in the Minute Book of the Court of Session, after which they shall be as effectual and legal as Letters of Supplement passing under His Majesty's Signet would formerly have been.

IV. Regulations of the Diets and Sessions and Sittings, Vacations, Recess and Box-Days of the Sheriff and Burgh Courts.

And be it Enacted, That the following *Five* Regulations shall be established and observed with regard to the Diets and Sessions, and Sittings, Vacations, Recess and Box-Days of the Sheriff and Burgh Courts:

Court Days in time of Sessions.

1. That Sheriffs shall hold a Court during the Winter and Summer Sessions for the despatch of business, *Two* Days at least, in every week, commencing at o'clock forenoon on each day, and on such days of the week, and at such Towns and Places as shall be most convenient for the Sheriffdom or Ward thereof, and Magistrates of Burghs in Scotland shall hold a Court one day at least in every week.

Duration of Winter and Summer Session and Christmas Recess.

2. That the Winter Session shall commence, at the latest, on the *First* day of *October*, or first lawful day thereafter, and shall continue until the *First* day of *April* inclusive, excepting during the Christmas Recess, which shall not be longer than *Three* Weeks; and the Summer Session shall commence on the

the *First* day of *May*, and continue till the *First* day of *August* thereafter: Provided, That the First Sittings after the first part of the Winter Session for the Trial of Jury Causes in the Sheriff Courts shall be fixed by a regulation of Court for a period during the Christmas Recess, and the Sittings after the remainder of the Winter Session shall be fixed for a period some time during the Spring Vacation, and the Sittings after the Summer Session shall be fixed for a period during the Autumn Vacation, and shall be continued for such time as may be necessary for trying all Jury Causes, that could not be tried during the Sessions, which may be set down for Trial previous to the said Christmas Recess or Spring and Autumn Vacations: And provided, That in fixing the said Sittings for Jury Trials during the Christmas Recess and Spring and Autumn Vacations, such Sittings shall be fixed, so as not to interfere with the Sittings for Jury Trials in the Court of Session during the same periods.

Sittings for Trial of Jury Causes in the Christmas Recess and Spring and Autumn Vacations.

3. That the Box Day in the Christmas Recess shall be on the *Fifth* day of *January*, but if not a lawful day, on the following lawful day thereafter; and the *Two* Box Days in the Spring Vacations shall be on any days the Sheriff or Magistrates shall fix, which, in so far as regards the Sheriff Courts, shall not interfere with the Sittings for Jury Trials in the Court of Session or Circuit Courts; and there shall also be *Two* Box Days, in the Autumn Vacation, one in the month of *August* and another in *September*, as shall be fixed by a Regulation of Court; and Summonses may be called on each of the said Box Days, and appearance made therein during the office hours of such Box Days or the three lawful days following after each of the said Box Days (and where no appearance is made within the said period, decree in absence shall be held to have passed on the third day after such Box Day;) and the presence of the Sheriff or Magistrates in Court shall not be necessary when such decrees in absence are held to have passed, and such decrees in absence may be signed afterwards by the Sheriffs or Magistrates out of Court; and in all cases where the time fixed for lodging Papers shall expire during the Recess or Vacation, the lodgment and return of the proceedings may be deferred until the first Box Day or Sederunt Day thereafter, the period allowed for the lodgment having elapsed; and on the lapse of *Three* lawful days from each Box Day, or on the first lawful day thereafter, or such other day, in the Spring and Autumn Vacations, Sheriff and Burgh Courts shall be held for the despatch of business as may be necessary to move one step, by pronouncing, on the motion of either party, an Order, Interlocutor or Decree in each process then in dependance in the

Box Day.

Papers falling due in Recess or Vacation to be lodged on first Box Day or first Sederunt Day.

Sittings, after each Box Day in the Spring and Autumn Vacations.

When Interlocutors pronounced by Sheriff and Burgh Courts in Vacations become final.

Sheriff or Burgh Courts, and every Order, Interlocutor or Decree in ordinary causes pronounced in the Spring Vacation shall become final on the second Box Day, if the usual period has elapsed, or if not, on the first Sederunt day in May, and in the Autumn Vacation on the following Box Day, if the usual time has expired, or if dated subsequent to the last Box Day, on the first Sederunt Day in October thereafter, (unless, in cases before the Sheriff Court, previously appealed to the Sheriff Principal); and the said Sheriff Courts held in Vacations, shall also try all Jury Causes which shall, with leave of the Sheriffs, on cause shown, be set down for trial previous to each Box Day.

Summary Applications to be received, and Interlocutors therein signed at any time during Recess Vacations.

4. That during the Sessions and the Vacations and Christmas Recess, summary applications shall be received and Interlocutors in such Applications pronounced dated and signed at any time, and which shall be entered in the Minute Book, and become final within *Six* free Days of the date of the Interlocutor, unless in cases appealed against to the principal Sheriff.

Other Proceedings in Sheriff Courts during Recess and Vacations.

5. That during the Vacations and Christmas Recess the Sheriffs shall act in all processes of Sequestration of Bankrupt Estates, Cessio Bonorum, Adjudication, Ranking and Sale of heritable property or ships, and Proceedings in Sales under Powers of Sale in Heritable Bonds or Dispositions on Security, and in Applications for the prevention of the loss of Evidence owing to great age, by the death of Witnesses in Processes depending in the Sheriff Courts; and the Sheriffs shall observe the provisions regarding the procedure in such proceedings by the Lords Ordinary officiating during the Vacations and Christmas Recess hereinafter mentioned.

Sect. XV.

V.

PROCEDURE IN BILL CHAMBER ABOLISHED.

And be it Enacted, That all procedure in the Bill Chamber of the Court of Session in passing or refusing Bills or Writs of Advocation or Suspension, or Bills or Writs of Suspension and Interdict, or in receiving Consignations in Advocations, or Caution or Consignation, in Suspensions, and in Loosings of Arrestment, or in passing Plack Bills for Summonses or Diligence, or otherwise, shall be discontinued and abolished in said Bill Chamber; and thereafter all such Procedure in Reclaiming Notes against the Judgments of the Local Courts, and in Suspensions, and Suspensions and Interdict, and Suspension and Liberation, and Consignations in such processes and in Loosings of Arrestment and other ways whatever, shall be conducted in the first instance in the Offices of the Deputy Clerks of Session before the Lords Ordinary in the Outer House in time of Session, or by any one of the Lords of Session, (with the exception of the Lords President of each of the Divisions of the Court,) who shall officiate weekly in rotation as Lord Ordinary during Vacation and Recess, and in the Offices of the Principal

Procedure in Reclaiming Notes and Suspensions to be conducted in Outer House and Inner House, and in the Offices of the Clerks thereof.

cipal Clerks of each of the Divisions of the Court when such Reclaiming Notes or Suspensions are carried into the Inner House.

VI. CAUTION in loosing Arrestments.

And be it Enacted, That Caution in loosing Arrestments used in virtue of Warrants of Arrestment in Writs or Summonses, or Extracts of Decrees in Actions before the Court of Session, or separate Warrants of Arrestment on a depending Action or liquid ground of Debt, or following on Extracts of Protests on Bills or Promissory Notes, Bonds, Contracts, or other obligations having a clause of Registration, shall be received by the Sheriff Clerk in any of the Sheriff Courts in the jurisdiction of which the Debtor and his Cautioner reside, or by the Depute Clerk of Session to the proceeding, where the Debtor and his Cautioner do not reside in the same Sheriffdom.

VII. WARRANTS of Writs or Summonses, or of Arrestment or Inhibition or other Writs, or of Diligences.

And be it Enacted, That Plack Bills being abolished, the Agent in the Supreme or Local Court, who prepares and signs Writs or Summonses, or Warrants of Arrestment or Inhibition or other Writs or Diligence, shall be satisfied that the necessary Warrants produced to him are the Warrants required by Law to be produced as formerly.

VIII. CALLINGS of Actions to be inserted in Minute Book of Court of Session, and Enrolments of Actions to be exhibited on Tables.

And be it Enacted, That in all Writs, or Summonses, or Petitions, whether ordinary or summary, and Writs of Suspension, the execution of Service shall be lodged in the office of the Depute Clerk to the process in which it was registered, as hereinbefore directed, *Two* Days previous to the date of calling, and failing thereof, the Respondent may produce his citation and force back the Execution of Service by Protestation, as hereinafter mentioned; and on the Execution of Service being so lodged, or forced back, or on a Reclaiming Note being lodged, such Depute Clerk or his Assistant shall insert the names and designations of the Pursuer and Respondent, and the surname of the Pursuer's Counsel, and name of the Pursuer's Agent in the written Minute Book of Court, and which shall be printed in the Minute Book, under the head of "Callings," during Session; and such callings shall also take place on each Box Day, by insertion in the written Minute Book, and the publication of the printed Minute Book; and on all occasions of such Callings, and of enrolments of Actions before the Lords Ordinary, or the Depute Clerks of Session in the Outer-House, or any of the Divisions of the Inner-House, a printed List of the Callings shall be exhibited on the Tables of the Parliament House by the Assistant Clerks of the Outer-House, by *Ten* o'clock in the morning of each day of publication of the Minute Book, and a written list of the Enrolments of Motions before the Lords Ordinary, or Depute Clerks, in the Outer-House, by *Twelve* o'clock noon of the day on which the Enrolments are made; and a List of the Enrolments before the Divisions of the Inner-House shall be exhibited as aforesaid by the Assistant Clerks of the Inner-House by *Half-past Twelve* o'clock afternoon of the day on which the enrolments are made, or papers are boxed; and a copy of each

During Session and on Box Days.

Printed Lists of Callings.

Lists of Enrolments.

each of the said Lists of the said Callings and Enrolments shall also be exhibited by the said Assistant Clerks of the Outer and Inner-House, on Tables in the Lobby of the Register House, by *Three* o'clock in the afternoon of the same day; and which several Lists shall remain patent to the Public, on the said Tables in the Parliament House, and Lobby of the Register Office, during the time the Parliament House is open, and during the Office hours of the Register House, until the period for entering appearance in Actions called has elapsed, or the Causes enrolled have been heard by the Lords Ordinary or by the Division of the Inner-House; and where Jury Causes are first enrolled before the Depute Clerk or Lord Ordinary, no remit of the cause to the Jury Cause Preparation Roll shall be made, as has hitherto been the practice, and no transmission of a Jury Process to the Issue Clerks until the Record is ready to be closed; and the cause shall continue fixed in the Office of the Depute Clerk, and before the Lord Ordinary to the process and the Division of the Court to which they are attached, in the same manner as other ordinary causes, from the first registration of the Writ or Summons until the Process is transmitted by the Assistant Clerk of the Outer or Inner-House to the Issue Clerks, to prepare Issues; and after Issues are prepared and approved by the Lord Ordinary, the Process shall be transmitted by the Clerk of the Process to the office of the Assistant Clerk and Keeper of the Rolls of Jury Causes, where the same shall remain (except when in the Roll of the Lord Ordinary, or the Court, or during the Trial) until the Judgment on the verdict becomes final, after which the Process shall be transmitted back by the said Assistant Clerk of Jury Causes to the Clerk to the Process, in order that the usual subsequent proceedings may take place; and Transmission Books shall be used for such transmissions of Jury Causes.

Lists of Enrolments of Motions.

Procedure in Jury Causes

IX.

PROCESSES BORROWED to be returned.

And be it Enacted, That, in order to prevent, as far as possible, detriment to the Record, and danger to litigants, from the death of Agents, and other accidents, in consequence of the practice of allowing the Proceedings before the Court to remain, during a long period, out of the custody of the Public Officers, the Principal and Depute Clerks of Session, and their several Assistants, and the Assistant Clerk of Jury Causes are enjoined, as soon as may be, after the close of every Summer Session, to examine what Receipts remain at that time outstanding in their respective Offices, for processes borrowed during the corresponding Sessions of the immediately preceding year, and to require the immediate return of such Processes to the Offices, and, if necessary, to apply the ordinary compulsitor, by caption, for recovery thereof, without prejudice to the same being lent again on a new Receipt, if required; with the exception from this injunction, that in case of Writings produced in any Process, if such Writings have been borrowed by the Agent of the party producing the same,

Exception as to Productions.

same, the Clerk or Assistant shall not, unless at the instance of a party in the Process, insist for the return of such Writings; and in case the said Clerks and their Assistants, and the Assistant Clerk of Jury Causes, shall not enforce the return of any process borrowed from them before the first sederunt day of the Winter Session, and the process shall thereafter be lost by the death or removal of the Agent who borrowed the same, or from any other cause whatever, the Principal and Depute Clerk, and their Assistants, or Assistant Clerk of Jury Causes, who may have lent the Process, shall be liable for all the damages that may be sustained from such loss to parties who shall suffer thereby; and such parties may proceed by summary Petition and complaint to the Court of Session for recovery of such damages; and the Court may remit to a Jury, or one of the Auditors of Court, to assess or compute the Damages.

Penalty for Neglect.

X.

REGULATIONS as to Special Pleadings and Proceedings in preparing ordinary Causes for Judgment in the Court of Session.

And be it Enacted, That the following Regulations, being Forty-three in number, with regard to Special Pleadings in preparing ordinary causes in the Court of Session for Judgment, shall be strictly observed:—

Form of Declaration.

1. That in all Writs or Summonses, or Petitions, and Suspensions, or Suspensions and Liberation, or Suspensions and Interdict, originating in the Court of Session, whether of an ordinary or summary nature, and where no Record is made up and closed in the Sheriff or Local Court, the Pursuer, Complainer or Petitioner shall, in a Declaration (separately from the Writ, or Petition,) set forth the facts he avers and offers to prove in support of his cause of Action or Complaint, in substantive propositions, and under distinct heads or articles in concise and explicit terms, and without argument; and state, under each article, his mode of proof, according to the form in Schedule (B.) No. I. hereto annexed.

Procedure in Reclaiming Notes against Judgments or Writs of Suspensions, or Reduction of extracted Decrees.

Record of Local Court.

2. Provided, That in the case of Reclaiming Notes against Interlocutory or final Judgments, or Writs of Suspension, or of Reduction of Extracted Decrees of Local Courts, where the facts and reasons of Reclaiming, Suspension or Reduction, have been stated in the Local Court, or a Record has been made up in the Local Court, the same, if not objected to in the Court of Session, shall be held to be the Statement and Reasons, or the Record in point of fact, and no new Statement and Reasons, or second Record shall be allowed to be made in the Court of Session; but the Party reclaiming, Complainer or Pursuer, if he think fit, may lodge with his Reclaiming Note, or with his Writ of Suspension, or of Reduction, a Note of additional Pleas of Law; and the Respondent, when he shall return

Additional Pleas of Law.

return the Process, may lodge a similar Note of additional Pleas, and such being done, the Record shall be finally closed; but if it shall be alleged that the Statement and Reasons, or Record, in the Sheriff Court has been imperfectly prepared, or has been improperly completed, by facts having been left out that ought to have been inserted, or which, from oversight or neglect, have not been stated, this shall be distinctly set forth in a supplementary Declaration, as a reason of Reclaiming, or Suspension, or Reduction, and produced by the Party reclaiming, or Suspender, or Pursuer, with the Reclaiming Note or Writ, when presented to the Clerk to be first registered; and avizandum shall then be held as made by the Depute Clerk to the Lord Ordinary without an enrolment; and the process shall be forthwith transmitted to the Lord Ordinary, who shall peruse the same; and if the Record appear to be correctly framed, the Lord Ordinary shall return the process, in order that the Record may be closed and authenticated; but if the Lord Ordinary be not satisfied that the Record has been properly prepared, he shall order the parties, or their Agents, to appear before him at Chambers, and state to them the defects in the Record, and allow them, in his presence, to alter the Record on the margin, and to close and authenticate the Record in manner hereinafter directed in the case of a Record in an ordinary action; and the Record being closed, Great Avizandum by the Lord Ordinary to the Court shall be held as made by the Lord Ordinary to the Court; and the Party reclaiming, Complainer or Pursuer, within *Eight* Days thereafter, or failing him, the Respondent, at the mutual expense of the parties, shall, if not previously printed, print and put into the Lords' Boxes a copy of the Reclaiming Note, or of the Writ of Suspension, or of Reduction, and also of the Record, provided the same do not exceed sixteen ordinary printed pages; but if the Record and Productions and Proof in the Sheriff Court should be of greater length, the parties shall not, unless of their own accord, print any part of the same; and after the parties or their Counsel have been fully heard *vivâ voce* before the Inner-House, the Process shall be forthwith considered by each of the Judges thereof; and for that purpose shall be transmitted by the Clerk to the Process to the Lord President of the Division, and to the other Judges of the Division with as little delay as possible; and the Court shall affirm or reverse the Judgment of the Sheriff Court, and may, at the same time, take into consideration the expenses previously incurred, both in the Sheriff or Burgh Court and in the Court of Session, and award them by an interim Decree, if the Court see just, or reserve them to the final issue of the Cause.

Supplementary Declaration.

Avizandum and closing Record.

Great Avizandum.

To be heard and advised by Inner House.

3. That

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3. That all writings in the hands either of the Parties, or under their control, or in the custody of third parties, relative to the matter in dispute, shall be produced or recovered, and all facts ascertained, as far as possible, at the very outset of the Cause; and for that purpose the Pursuer shall, apart from his declaration, specify in a Note (intituled, "Note for A. B. of Writings called for, and of Interrogatories to be answered by the Respondent,") all the writings of which he desires the production or recovery, and the Interrogatories as to the facts to which he requires answers by the Respondent.

Call by Pursuer for production of Writings and Admissions.

4. That along with the Declaration the Pursuer shall produce and lodge in process, all the writings on which he founds, conform to inventory thereof.

Pursuer's production of Writings.

5. That if the Pursuer or Complainer, either during Session or the Christmas Recess, or Spring or Autumn Vacations, shall not, on or before the day of Appearance mentioned in the Writ, duly lodge in the office of the Clerk to the Process, the Execution of service of the Writ or Petition, the Respondent may enter Protestation in the Minute Book for not lodging the execution of service of the Writ or Petition; of which Protestation a Copy shall be intimated by post to the opposite Party or his agent, of the same date; and if this Protestation be not got scored within *Eight* Days after publication of the Minute Book, the Protestation may be extracted, and the Respondent, by such failure on the part of the Pursuer or Complainer, shall be held to have obtained a Decree for *One Pound Five Shillings* in name of Costs, besides the expenses of Extract, and of all manner of legal execution after Extract; but provided that if payment of such Costs shall be made to the opposite party, or his agent, at any time before Extract of the Protestation, the Pursuer or Complainer shall be thereby reponed, and entitled to lodge his execution of Service, and proceed with the Cause; but that in case the Protestation be extracted, the instance shall fall, and the Respondent shall not be obliged to answer except on a new Writ and Citation on the ordinary induciæ.

Protestation for not lodging Writ and Productions, if any.

6. That Appearance may be entered for Respondents in Actions, Reclaiming Notes, or Suspensions, or other causes, before the Court of Session, called during the Session, at any time during office hours after *Six* of the clock of the afternoon of the Tuesday or Friday on which the calling of the Action shall appear in the printed Minute Book, or between the hours of *Six* and *Seven* of the clock in the afternoon of the Wednesday following the said Tuesday, or between the hours of *Ten* and *Eleven*

Entering Appearance for Respondent, &c.

Callings to be published in Minute Book.

In Session

In Vacations or Recess.

Eleven of the clock of the forenoon of Saturday following after the said Friday, in the Parliament House; and in Actions called on the Box Days in the Vacations or Recess, at any time during office hours, of each Box-Day, or the Three following lawful days; provided that the Minute Book shall be printed and published on the Second day after each of the Box Days in the Vacations and Recess, and on the Second day after the close of the Sittings in September.

Taking to see, and returning.

7. That upon entering Appearance, the Respondent's Agent shall have right to borrow the Pursuer's productions, and retain the same for *Twelve* Days after the day on which the Action was called, but on or before the *Thirteenth* day thereafter in time of Session, he shall return the said productions, and if he abide by his Appearance, shall lodge therewith his Answers to the Writ and Declaration, framed in the form and manner hereinafter directed, and his Answers to the Note of Writings and of Interrogatories, and also his productions, if any, with the Copy of the Writ and Declaration, and Citation served on him, and a Mandate by him in favour of his Agent, to conduct his opposition to the Action from its commencement to its close, unless such Mandate shall be recalled; and in the case of a Reclaiming Note against the judgment of any Local Court, the Respondent shall in like manner be entitled to borrow the Productions and Note of additional Pleas, if any, and retain them for the same period, and when he returns them on the *Thirteenth* day he may also lodge a Note of additional Pleas; and provided that the time to be allowed for seeing the Productions in Processes of Multiple Poinding, and Ranking and Sale, Cessio Bonorum, or other Processes in the Court of Session (where there are more than one Respondent having separate interests) shall in no case exceed *Six* Days, and during the last three weeks of Session the time shall be limited to *Forty-eight* Hours; and when Appearance is entered by any Agent for one or more, but not for all the Respondents, the Agent so entering the first Appearance shall be entitled immediately to borrow the Productions, and the Appearance shall be marked by the Clerk; and in case Appearance shall afterwards be entered by any other Agent, that Agent shall give notice of the same by Letter to the Agent by whom the Productions have been borrowed, who shall in that case return them on the *Fourth* day after his entry of Appearance where there are more than two Respondents, but if no more than two, on the *Seventh* day, so as time and opportunity may be allowed to the Agents of other Parties to examine the same, to whom they shall be lent by the Clerks, and if more than two Respondents, each may retain them for *Forty-eight*

Lodging Answers to Declaration.

Time allowed in Processes of Multiple Poinding, Ranking and Sale, &c.

Appearance for one or more Parties by one Agent.

eight Hours; and the lodgment of Answers or a Note of additional Pleas by all Parties who shall abide by their Appearance, where necessary, shall be made on or before the *Thirteenth* day after calling the Cause; but the Depute Clerk to the Process, may afterwards, on the application of a party (or his agent) who has not been permitted to borrow the Process before lodging Answers, and on cause shown, allow his agent to borrow the same, and Answers in that case shall be lodged within *Six* Days thereafter.

Where Appearance is made, and Answers lodged, or where no Answers are lodged.

8. That where Appearance has been made and Answers lodged, the Pursuer or Respondent may enrol the Action, before the Depute Clerk to the Process, or the Lord Ordinary in his motion roll for all necessary purposes; or where Appearance is made, but no answers lodged within the time limited for that purpose, and also where no Appearance is made by the Respondent on the date of calling, or on the following day, during Session, or within *Three* Days after the calling appearing in the Minute Book during Vacation, Decree in Absence shall be held to have passed against the Respondent in terms of the conclusions of the Writ, or Petition, or Reclaiming Note, and for expenses, and shall be written out and signed accordingly by the Depute or Assistant Clerk without requiring the signature of the Lord Ordinary, and the Account of Expenses shall be lodged and transmitted to the Auditor, and on being taxed, and on the elapse of *Twenty* Days from the date of calling, the Pursuer may enrol the Cause before the Lord Ordinary, and obtain Decree in Absence, which may be extracted forthwith: Provided always, That if the Respondent shall before Extract pay to the Pursuer, or his Agent, the sum of *Two* Guineas, in respect of the expense and delay, or after Extract, pay to the Pursuer the amount of the taxed expenses and dues of Extract, and the expenses of all legal execution thereon as shall be taxed, if necessary, such Respondent shall be held thereby reponed without any Interlocutor of the Lord Ordinary, or the Court, or without any Bill of Suspension being necessary, and be entitled to borrow and retain the Pursuer's Productions for *Six* Days after that date; but on or before the *Seventh* Day thereafter in time of Session, he shall return them, and if he abide by his Appearance, lodge his Answers to the Writ and Declaration or Note of additional Pleas in Law: Provided, That although the Party against whom Decree in Absence, or upon failure to lodge Answers, or a Note of additional Pleas in Law as aforesaid, has been pronounced, is upon the Poor's Roll, he shall not be reponed without payment of expenses, unless the Pauper, or his Agent, can make it appear, to the satisfaction of the Depute Clerk to the Process,

Reponing Paupers.

that the Decree so pronounced has gone out from the inability of the Party to furnish the necessary information, and not from the fault or neglect of the Agent in the cause, or the wilful neglect of the Pauper himself; and if the Depute Clerk be satisfied that such is the fact, he may grant warrant to repone the Pauper without payment of any expenses; or the opposite Agent, if he be satisfied of the fact, may consent to repone the Pauper without payment of any expenses.

Form of Answers, and Note of Pleas and Answers for Respondent to Writ and to Declaration, and Note of Writings and Interrogatories for Pursuer.

Demurrer.

9. That in the Answers to the Writ and Declaration, the Respondent shall (I.) State all dilatory Answers or Defences to the Action: Provided, That where the Respondent demurs or objects that the matter alleged in the Declaration is insufficient in law, he shall specially point out in what respect it is so; and he shall be held thereby to admit the facts alleged in the Declaration; and such demurrer or separate objection shall be stated and disposed of by the Lord Ordinary as a dilatory Answer: (II.) Where there is no demurrer, answer each article in the Declaration in its order, and distinctly admit or deny, in whole or in part, the statements therein made, without argument, or introducing into the Answer any counter-statement or averment on his part; but in case the Respondent shall have such counter-statement or averment on his part to make, it shall be competent for him, and he shall be bound to do so, under a separate head of his Answer, to be intituled "Respondent's Statement of Facts," in which he shall in like manner set forth the whole facts which he avers and offers to prove on the merits as pertinent to his side of the case: and, (III.) State under each article his mode of proof, and separately lodge a short and concise note of Pleas in law deduced from the statements maintained in the Answers set forth in distinct and separate propositions, without argument, but accompanied with a reference to the authorities relied on; (IV.) The Respondent shall either produce the writings called for, or, in his Answers to the Pursuer's Note, separate from his Answers to the Declaration, deny that the writings called for are in his custody, or under his control, and state where they are to be found, to the best of his knowledge and belief; and also explicitly, in answer to the Pursuer's call for admissions, admit or negative the interrogatories as to the facts, on pain of being compelled to appear personally in Court, and be examined on oath as a Haver, or judicially examined as a Party, and being found liable in expenses, in case the Pursuer shall afterwards recover the writings from him by a diligence, or shall prove the facts denied by him, by witnesses, or his judicial examination, writ or oath; and the Respondent, on his part, shall also similarly specify in a Note the writings called for by him

Answers to Pursuers. Call on Respondent for Production of Writings and Admissions.

Respondents call on Pursuer for Writings and Answers to Interrogatories.

him from the Pursuer, and the Interrogatories to be answered by the Pursuer; and the rule above prescribed shall also be observed in regard to the writings required by the Respondent from the Pursuer, and the Answers of the Pursuer: and, lastly, the Respondent shall, along with his Answers, produce all the writings on which he founds, in so far as the same are within his custody or power.

Respondent's Production of Writings.

10. That where a statement is made by one party, and not denied by the other, such statement shall be specially held by the Lord Ordinary to be admitted; and all denials of averments of facts on either side shall be stated, or so far explained, as to show either that the facts averred are not known to the Party making the denial, or are differently known, or are considered by him as irrelevant to the matter at issue; and where any denial is made with the evident intention, as it may finally appear, of harassing his opponent, such denial shall inevitably be attended with whatever costs may have been thereby occasioned in the Cause.

Denial of Statements in Declaration, and Answers and Notes of Pleas.

11. That the Pursuer may see the Respondent's Productions and Answers, and borrow and retain the Process for *Fourteen* Days after the Answers are lodged, and make on his Declaration, but not in the shape of a new paper, such additions and explanations in point of fact as appear necessary; and subjoin to the Declaration an explicit admission or denial of the facts alleged by the Respondent; and the Pursuer may further lodge separately a Note of Pleas in Law in support of his action, and subjoin thereto an explicit admission or denial of the Pleas of Law maintained by the Respondent; and the Pursuer shall farther answer the Respondent's call for Writings, and explicitly admit or negative the Respondent's Interrogatories, and lodge his Answers to them separately; but if the Pursuer be not satisfied with the Respondent's production of Writings and the Answers to his Interrogatories, he may, at the end of his inventory, or in a Note of Additional Writings called for, crave a diligence for the recovery of the Writings specified, and a Judicial Examination of the Respondent as to the facts; and on the Process being returned by the Pursuer or forced back, the Respondent may see the Pursuer's Alterations and Productions, and additional Note of Writings, and Answers to his own Interrogatories, and borrow and retain the Process for *Fourteen* Days; and may make on his Answers, but not in the shape of a new Paper, such additions and explanations in point of fact as appear to be called for; and explicitly admit or deny the corrected averments in point of fact of the Pursuer; and the Respondent shall also admit or deny the Pursuer's Pleas in Law; and if the Respondent be not satisfied with the Pursuer's Production of Writings in his hands,

Pursuer to see Productions, and alter his Declaration.

Respondent to see Pursuer's alterations, &c.

or under his control, and the Answers to his Interrogatories, he may, at the end of his Inventory, or in a Note, add any other writings which he may require, and crave a diligence for the recovery of the Writings specified, or a Judicial Examination of the Pursuer.

Minute for Pursuer denying Facts in Answers.

12. That if the Writ and Declaration, and Note of Writings and of Interrogatories for the Pursuer, and Answers, and Note of Pleas for the Respondent, shall be prepared in terms of the preceding regulations, without any alterations by either Party, and the Pursuer is satisfied with the Respondent's production of Writings and Answers, and is willing to close the Record, and the Respondent has not called for a Judicial Examination of the Pursuer, or for any Writings from him, or lodged any Interrogatories to be answered by him, or—having lodged a Note of Writings called for, and Interrogatories,—the same have been produced or answered by the Pursuer, or if the Respondent has filed a Demurrer to the Declaration, the Respondent shall not be entitled to make any further amendment or alterations on his Answers and Note of Pleas, nor to object to closing the Record, with or without a Minute for the Pursuer, as the case may be, simply denying or admitting the facts set forth in the Answers, and the Respondent's propositions of Law, and also with or without a separate Note of his own Pleas in Law in support of his action; provided, that if the Respondent shall desire to have any further written pleading, except subjoining to his Pleas in Law a denial or admission of the Pleas in Law maintained by the Pursuer, he shall only be allowed to amend his Answers and Note of Pleas, on making payment to the Pursuer of the expenses thereby occasioned, not exceeding *Two* Guineas, as in the case of an amendment of the libel by the Pursuer.

Objections to Matter of Impertinence or Scandal, or Surplusage contained in the Pleadings.

13. That in case matter of impertinence, or scandal, or surplusage shall be introduced into the Declaration or Answers, the Pursuer, when he returns the Process, with or without amendment of his Writ, or alterations on his Declaration, and the Respondent, when he returns the Process, with or without amendment on his Answers and Note of Pleas, may lodge separately a short Note of Objections to such matter, and quoting the first and last words of the part objected to.

First Enrolment before the Lord Ordinary.

14. That as soon as the Process is returned by the Respondent as aforesaid, or forced back, and if the Respondent has stated dilatory or alternate defences on the merits, or filed a Demurrer, or if either party has lodged a Note of Objections to matter of Impertinence, or Scandal, or Surplusage, in the Declaration or Answers,

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Answers, the Pursuer or the Respondent may enrol the Action in the hand-roll of the Lord Ordinary to the Process; and the Assistant Clerk shall transmit the whole Process, before *Four* o'clock in the afternoon of the day of Enrolment, to such Lord Ordinary, in order that he may examine the same; and the Lord Ordinary at this first calling of the Cause before him, shall hear Parties, or their Counsel, on the dilatory Answers or Defences, and the Demurrer, or Note of Objections to matters of Impertinence or Scandal, or Surplusage, and dispose of the same as follows: (I.) The Lord Ordinary may reserve consideration of such dilatory Answers or Defences as require probation, until the peremptory Answers or Defences be pleaded, and the Record closed as hereinafter directed; but if the Lord Ordinary shall sustain the dilatory Answers or Defences, or any of them, to the effect of dismissing the Action, he shall at the same time determine the matter of Expenses; or if, on the contrary, the Lord Ordinary shall repel the dilatory Answers or Defences, the Cause shall then proceed in its due course of preparation, without any finding respecting Expenses, reserving this part of the Expense to be disposed of along with the rest of the Expenses on the final decision of the Cause; and the said Judgment of the Lord Ordinary shall be final, unless the Pursuer, where the dilatory Answers or Defences have been sustained and the Action dismissed, shall within *Twenty-one* Days from the date of the Lord Ordinary's Judgment, apply by Note, signed by the Pursuer or his Agent, in manner hereinafter directed to have such Judgment reviewed by the Judges of the Division of the Inner House to which he is attached, or unless in the case where the Lord Ordinary shall have repelled the dilatory Answers or Defences, the Respondent shall at the time of pronouncing Judgment as aforesaid, give notice of his intention to bring the Judgment under review, in which case the Lord Ordinary, instead of proceeding with the preparation of the Cause, shall forthwith give Judgment for the Expense of that preliminary discussion, and the Expenses of Extract, and of all manner of legal execution, and allow the same to be extracted as an Interim Decree; and if the Respondent shall not avail himself of the right to bring the said Judgment of the Lord Ordinary under review as hereinafter mentioned, the said Interim Decree may be forthwith extracted; provided that the Respondent, any time within *Twenty-one* Days from the date of the Interlocutor, may apply by a Note signed by the Party or his Agent to the Division of the Inner House for a Review of the Lord Ordinary's Judgment; and in reviewing the Lord Ordinary's Judgment, and adhering to or altering the Interlocutor by him pronounced, the Court shall also

Disposal of Dilatory Answers or Defences, &c.

Expenses.

Judgment liable to review of Inner House.

also dispose of the matter of Expenses relative to that preliminary discussion; and if the Interlocutor of the Lord Ordinary repelling the dilatory Answers or Defences, shall be adhered to, an Interim Decree shall be pronounced for the Expenses, both in the Inner and Outer House, and the Expenses of Extract, and of all manner of legal execution, if such shall be allowed, and which Interim Decree may be immediately extracted; and it shall not be competent to appeal, either to the other two Divisions of the Court or to the House of Lords, against the Judgment of the Inner House, where the Action is not dismissed, unless express leave be given by the Division, but reserving the effect of the dilatory Answers or Defences, if any ultimate Appeal, either to the other two Divisions of the Court or the House of Lords, should afterwards be taken in the Cause, when finally decided: (II.) And the Lord Ordinary may sustain the Demurrer and dismiss the Action, in which case he shall determine the matter of Expenses; and his Judgment in that case shall be subject to Review of the Inner House as aforesaid, or he may repel the Demurrer, in which case, and the dilatory Defences and Note of Objections to Scandal or Impertinence, if any, being finally disposed of, the Cause shall proceed in due course of preparation, without any finding as to Expenses, reserving this part of the Expenses to be disposed of along with the rest of the Expenses on the final decision of the Cause; but the said Judgment of the Lord Ordinary shall be final where the Demurrer has been sustained, unless the Pursuer shall, within *Twenty-one* Days from the date of the Lord Ordinary's Judgment, bring such Judgment under the Review of the Inner House as aforesaid: And (III.) the Lord Ordinary may sustain the objections to matter of Scandal or of Impertinence, or of Surplusage, in which case he shall determine the matter of Expenses; and in that case his Judgment shall be subject to the review of the Inner House as aforesaid; or he may repel such objections, in which case the Cause shall proceed in due course of preparation without any finding as to Expenses, reserving this part of the Expenses to be disposed of along with the rest of the Expenses on the final decision of the Cause; and the said Judgment of the Lord Ordinary shall be final unless brought under the Review of the Inner House by the Party dissatisfied therewith, within *Twenty-one* Days from the date of the Judgment as aforesaid; provided that if matter of Scandal or Impertinence or Surplusage shall be introduced by either of the Parties into any of the subsequent altered, amended, or revised Pleadings before the Record is closed, the opposite Party, within *Eight* Days after the lodgment of the pleading containing such matter, may lodge a Note of Objections as aforesaid

Appeal against Judgment of the Court not competent.

Objections to matter of Scandal or Impertinence, or Surplusage in subsequent altered, amended or revised Pleadings.

aforesaid to such matter: and the Lord Ordinary shall forthwith hear Parties or their Counsel thereon, and dispose of the same in like manner as is above provided.

Orders by Depute Clerk to the Process.

15. That on the merits of the Cause, the Depute Clerk to the Process may give ORDERS with regard to all necessary pleadings or papers, or order writings to be produced, or grant diligence against parties, or havers, for recovery of writings, or grant prorogations of the period for taking and reporting Declarations of Parties or Depositions, or taking Depositions of Parties on references to oath or of Havers, and order the Record to be closed, or grant Prorogations of the time allowed by the Lord Ordinary or the Court for examining Witnesses; and which Orders and Prorogations shall be as effectual as if they were pronounced and signed by the Lord Ordinary to the Process as heretofore; and the Assistant Clerks in the Outer-House shall make up separate Rolls of Motions for these purposes, to be put on the Tables of the Parliament House, as at present, and also on Tables in the Lobby of the Register House, as above directed; and which Motions shall be called by the Macers of the Court, and disposed of by the Depute Clerks in the Outer-House; and such Orders or Warrants for Diligence against Parties, or third Parties, or Prorogations, shall become final, unless appealed against verbally at the time of pronouncing or granting the same, and unless a Notice of such Appeal, and the object of it, shall be intimated by post on the same day to the opposite Agent; and in the event of such Notice of Appeal being lodged, the Depute or Assistant Clerk shall transfer the same to the Motion-roll of the Lord Ordinary to the Process; and the Lord Ordinary shall dispose of the same on hearing the Parties, or their Agents, or Counsel, at the first calling of his Roll thereafter; and if the Order of the Depute Clerk be affirmed, the Appeal shall be refused with *One Guinea* of costs, and the dues of extract, and all manner of legal execution.

Rolls of Motions before Depute Clerks.

Appeal against Orders of Depute Clerk.

Time to be fixed for giving in Pleadings where not regulated by this Act.

16. That in all Orders of the Depute Clerk, or Lord Ordinary, or of the Inner-House, for giving in Papers or Pleadings from both or either of the Parties, where a time is not fixed by this Act, a time shall be fixed for giving in the same, with due regard always to the nature and circumstances of the case; which time may be prorogated by the Depute Clerk, as aforesaid; provided that special application, by verbal motion to the Depute Clerk in his Roll of Motions, or by Note, signed by a Party or his Agent, for such Prorogation, and lodged with the Clerk of Process, shall be made before the lapse of the time first fixed; and no Prorogation shall in any instance be granted, except on cause shown.

Papers must be duly signed when lodged with the Clerk.

17. That the Clerks shall not receive into Process any Paper requiring the signature of a Party or his Agent, without such signature.

Date of lodging Papers to be marked by the Clerks.

18. That the Clerks in the Outer and Inner House, or their Assistants, shall mark the true date of lodgment on every Paper given into Process, excepting such as they are herein prohibited to mark as lodged.

Papers falling due on Saturday.

19. WHEREAS the Clerks' Offices are shut in the afternoon of Saturday, and it is not expedient that Papers or Processes should be lodged with the said Clerks in the Parliament House, where they are engaged with the business of the Court, and where they have no means of comparing the Inventories with the Process, and scoring the Receipts, or examining deliberately whether the Papers offered to them be presented in due time; BE it Enacted, That when any Paper is ordered, or allowed to be given in, so that it would be necessary to lodge it on Saturday, the order for such Paper may be duly implemented in the course of the Monday following; and the Clerks may receive and mark such Papers accordingly: Provided, That when the Court happens to rise on Saturday, either at the end of the Session or for the Christmas Recess, this Regulation shall have no effect as to Orders falling due, by the present practice, to be implemented on such Saturday; and further provided, that this Regulation shall not be construed to apply to Reclaiming Notes, or Notes for being reponed, and without prejudice to the effect of any peremptory and special Order for the lodging on Saturday of any Paper which the Depute Clerk, the Lord Ordinary, or the Court, may see cause to make.

Except the Saturday immediately before Vacation or Recess, &c.

Orders or Interlocutors to be prefixed to Papers and Reclaiming Notes.

20. That every Paper given in to Process in the Outer or Inner House, in terms of an Order of the Depute Clerk, or Rule or Interlocutor of the Court, ordering or allowing the same to be given in, and also every Reclaiming Note, and every Note craving to be reponed shall have prefixed thereto a full copy (including the date) of such Order or Rule, ordering or allowing such Paper, or of the Prorogation of the opposite Party, or Interlocutor prorogating the time originally allowed, if any, or of the Interlocutor complained of, as the case may be, and which Order or Rule, or Interlocutor, or Prorogation of the opposite Party, or Interlocutor of Prorogation, shall not be repeated in the body of the Paper.

Examination by Depute Clerk of Declaration and Answers.

21. That the preliminary Answers or Defences, and objections to matter of Impertinence or Scandal, or Surplusage, being fully disposed of, or where there are no such Answers or Defences,

or

or Note of Objections, the Depute Clerk to the Process shall proceed to examine into the correctness of the Writ and Declaration and of the Peremptory Answers and Pleas in Law, and productions on the merits; and if it shall appear to the Depute Clerk that the grounds of Action and Averments, as set forth in the Writ and Declaration, are in terms not sufficiently positive and clear, and the Writ and Conclusions thereof, or the Averments in the Declaration, and the Prayer of the Petition, not regularly or legally set forth or deduced, according to the form and nature of the Action and the laws and practice of Scotland, and on hearing Parties or their Agents, he may either dismiss the Action, decerning against the Pursuer or Petitioner for expenses of Process not exceeding *Two Guineas*, and the expenses of Extract and of all manner of legal execution, and reserving to the Pursuer or Petitioner to bring a new Action; or order the Declaration or Answers to be altered on the margins thereof, or a separate amendment of the Conclusions or Prayer, and give Interim Decree against the Pursuer or Petitioner for the expenses occasioned by the incorrect form of such Declaration or Answers, or Conclusions, or Prayer, and modify such expenses not exceeding *Two Guineas*, and also decern for the Fees of Extract and of all legal execution thereon; and such Interim Decree may be immediately extracted, and shall be as effectual as if pronounced by the Lord Ordinary, and become final, unless a short Note of Appeal, signed by a Party or his Agent, to the Lord Ordinary, having the Interlocutor of the Depute Clerk prefixed, be lodged in the office of the Depute Clerk to the Process, and a Copy intimated to the opposite Agent by post on the *Second* Day after that on which the Interlocutor was pronounced; and which Note the Lord Ordinary, on hearing the Agents, shall dispose of by affirming or altering the Interlocutor complained of; and, if affirmed, the Lord Ordinary shall decern for *Six Shillings and Eight-pence* of additional expenses; and the Lord Ordinary's Interlocutor, altering or affirming the Interlocutor of the Depute Clerk, and decerning for such additional expenses, shall be final, and not subject to the review of the Inner-House; and in like manner, where the Respondent has not set forth his Peremptory Answers and Pleas in terms sufficiently positive and clear in point of fact, and with due correctness in point of law, the Depute Clerk may order separate Amendments of the Answers and Pleas in Law more satisfactory and correct to be given in, and give Interim Decree against the Respondent for the expense occasioned by his imperfect or evasive Answers and Pleas, and modify the expenses, not exceeding *Two Guineas*, and for the

Dismiss Action, or order Declaration and Answers to be altered, or a separate Amendment of Conclusions or Prayer.

Appeal to Lord Ordinary against Interlocutor of Depute Clerk.

fees of extract, and of all legal execution thereon; and which Interlocutor shall be subject to the review of the Lord Ordinary, on a Note of Appeal signed and lodged as aforesaid, within the time above mentioned; and, in like manner, if the Interlocutor of the Depute Clerk be affirmed with the sum of *Six Shillings and Eight-pence* of additional expenses decerned for, and the appeal refused, the Lord Ordinary's Interlocutor disposing of the Note, and decerning for such additional expenses, shall be final as aforesaid; and unless the expenses awarded in this preliminary adjustment of the Declaration and Answers and Pleas in Law, where a separate Amendment of the Conclusions of the Writ or Prayer of the Petition, or separate Amendments of the Answers and Pleas in Law have been ordered, shall, at lodging such Amendment, be paid over to the Clerk, for behoof of the Pursuer or Respondent, as the case may be, the Amendment or Amendments shall not be received.

Arrangement of future Proceedings in the Cause.

22. That the Depute Clerk at the said first calling of the Cause before him shall hear Parties in his Motion Roll on the best mode of further proceeding with the Cause; whether by judicial Examination of the Parties, where such examination is craved by either of them as hereinbefore provided; whether by Admissions; or whether by Jury Trial, or Proof before the Lord Ordinary, or on Commission; or whether any further production of writings in the possession of the Parties shall be ordered, or Diligence granted for recovery of Writings in the hands of Parties or third Parties; or whether any Inquiries shall be ordered before Answer; or whether any examination of Accounts, and a Report shall be made by the Depute Clerk or Auditors; or whether the Record shall be closed on the Declaration and Answers, with the Amendments of the Writ or Petition, and Alterations on the Declarations and Answers and Notes of Pleas, if any, as containing their full and final statement of facts and pleas in law, or whether, in the case of alternative Answers or Defences on the merits, by a Record applicable to one of the Answers or Defences, superseding the making up or closing a Record with regard to the other Answers or Defences, until the first Answers or Defences shall be finally disposed of; and a Minute of the Procedure then fixed shall be authenticated by the Depute Clerk, and the Parties, or their Agents in the Cause; and if the Parties agree to close the Record, the same shall be forthwith completed as hereinafter directed; it being provided that on the same day on which the Cause is so heard before the Depute Clerk, or the *Two* following days, but not later, either Party may, before finally closing the Record, if not already done, make

Minute of the Procedure to be followed.

Where the Parties agree to close the Record.

Amendments on Declaration and Answers.

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make such short alterations or additions as can easily be made on the margins of the Declaration or Answers, or Notes of Pleas, and may also add to the former Inventories or Notes a list of any further Writings not previously, or at the outset of the Cause, in the knowledge of the Party making the call for production, and crave a Diligence for the recovery of such Writings in the hands of the Parties or otherwise, or a Judicial Examination of the opposite Party, if not formerly craved; after which, the Diligence for recovery of the said Writings shall be granted by the Depute Clerk, executed and reported, or refused, or a Judicial Examination allowed by the Depute Clerk, and taken, or refused, or if no farther Writings be required, or no Diligence for their recovery be granted, or on the lodgment or recovery of such Writings, or if no judicial Examination be required, or if a judicial Examination be refused, the Record shall be forthwith closed and authenticated as hereinafter directed.

Judicial Examinations of Parties, and Examination of Havers.

23. That if a judicial Examination of either of the Parties before closing the Record, and before Answer, or a Diligence for the recovery of Writings in the hands of Parties, or third Parties, be allowed, the Examinations shall take place in presence of the Lord Ordinary to the Cause, at Chambers, at such time as he shall appoint, and in presence of the Parties or their Agents or Counsel, where the Party or Parties to be examined shall reside within *Fifty* Miles of Edinburgh; and where they reside at a greater distance within Scotland, the Depute Clerk shall remit the Process to the Judge Ordinary of the Bounds, to take the judicial Examinations, and to report; provided, that where any Party appeals against the Judgment of the Lord Ordinary to the Court, or against the Judgment of a Commissioner to the Lord Ordinary with regard to the competency of any question under a judicial Examination, or a Diligence for the recovery of Writings, or the Examination of Witnesses, and the Court, or the Lord Ordinary, as the case may be, shall affirm the Judgment of such Lord Ordinary, or Commissioner, the Court or the Lord Ordinary shall at the same time find the Appellant liable in such Costs as the Court or Lord Ordinary shall modify, or as shall be taxed.

Appeal to the Court against Judgment of the Lord Ordinary, or that of a Commissioner, in taking a Judicial Examination or Proof.

Declarations of Parties, and Depositions of Witnesses or Parties to be taken in first Person.

24. That all Declarations of Parties, or Depositions of Havers, Witnesses or Parties, in Actions either before the Court of Session, shall be taken in the First Person, and no other form; and the present practice of taking Declarations and Depositions in the Third Person shall be and is hereby henceforth prohibited; and the present practice of expressing Figures in

Figures in Declarations, &c. not to be written in Words at length.

words at length in Declarations or Depositions, shall be discontinued, and Figures only taken down in such Declarations or Depositions; provided that all such Declarations or Depositions shall be taken by Short-hand Writers, where they can be procured conveniently; and such Declarations or Depositions shall be quam primum, distinctly extended, read over to, and signed by the Parties, Havers or Witnesses, and the Judge or Commissioner, and the Short-hand Writer; and such Writers shall be sworn de fideli administratione in the same manner as Clerks to Commissioners taking such Declarations or Depositions are at present; and such Writers shall be paid for taking and clean copying such Declarations or Depositions at the rate of for every sheet consisting of two hundred and sixty words or thereby, and parts of a sheet; or if any other Person be employed to write the Declarations or Depositions in the ordinary manner, he shall be paid at the rate of for every sheet or part of a sheet; and the account of such Short-hand Writers or other Persons shall be certified by the Judge, or Commissioner, who took the Declaration or Deposition, and paid quarterly out of the monies chargeable or made chargeable by the Acts passed in the seventh and tenth years of the reign of her Majesty Queen ANNE, with the fees, salaries and other charges allowed, or to be allowed, for keeping up the Court of Session and other Courts in Scotland.

Short-hand Writers to be employed to take Declarations or Depositions.

Reporting Diligence.

25. That the time specially fixed for reporting a Diligence shall not be prorogated, nor the Diligence renewed, except on payment of such previous Expenses, not exceeding *Two Guineas*, as the Depute Clerk shall modify, unless before the lapse of the time so fixed, special application by Note signed by the Party or his Agent, or otherwise to the Depute Clerk shall be made for such Prorogation, and it shall only be granted on cause shown; and the Party failing to report a Diligence shall be held to have abandoned his wish to recover writings by a Diligence, and on expiry of the time allowed, Circumduction shall be held as granted for not reporting; provided that on a Note signed by the Party or his Agent, or Motion lodged or made within *Fourteen* Days of the Circumduction, the Lord Ordinary, on cause shown, and on payment of such expenses as he shall think reasonable, not exceeding *Two Guineas*, to the opposite Party, may recall such Circumduction, and prorogate the Diligence for such further time as he may see cause to fix, or he may refuse to recall the Circumduction; and the like rules shall be followed in the case of Remits or Commissions granted for taking Declarations, Oaths of Parties, or Proofs.

Circumduction.

Remits or Commissions.

26. That

20. That if either the Pursuer or Respondent fail to produce all the Writings in their custody on which they intend to found, with the Declaration and Answers respectively, or on the Requisition of the opposite Party, or do not apply for a Diligence for recovery of Writings in the hands of Parties, or third Parties, or do not apply for a judicial Examination as before directed, such Parties shall not be allowed to make any further production of Writings or make any similar application for recovery of Writings, or for a judicial Examination, at any subsequent stage of the procedure, unless upon showing cause and making payment to the opposite Party of *Three Guineas* of Expenses in respect of the delay and neglect, or unless in the case of res noviter, as hereinafter directed; and on appeal against the Interlocutor of the Depute Clerk refusing such an Application, no such Application shall be granted by the Lord Ordinary or the Court, until such Expenses are paid to the opposite Party or his Agent, unless in the case of res noviter as aforesaid.

Applications for Diligence for recovery of Writings, or for Judicial Examinations, not to be granted at any after-stage of the Cause, except on cause shown and payment of Expenses, or in case of res noviter.

27. That in Jury Trials or other Causes before the Court of Session, or Sheriff Courts of Scotland, or in Judicial or Extra-judicial Submissions in Scotland, where Witnesses, or Havers of Writings (not parties in the cause) reside in England or Ireland, or any other part of His Majesty's Dominions, and the Judges, or proper Officer of any of such Courts, or the Arbitrator in such Submissions in Scotland, shall allow such Witnesses or Havers to be examined, the Pursuer, or Respondent, or his Mandatory, may exhibit to the Witness or Haver the Warrant, or an extract thereof, to cite Witnesses or Havers to appear at the Trial, or in the Cause, or Submission, or before a Commissioner, and to give evidence as a Witness or Haver, and require him personally so to appear and produce Writings or give Evidence, either before the Court or Arbitrator, or a Commissioner appointed by the Court or Arbitrator; and on tendering to and paying such Witness or Haver, or satisfying him with regard to his reasonable expenses of going to the place of Trial or Examination, and returning home, such Witness or Haver shall be bound to obey such warrant and request, and attend and produce the Writings called for, or give evidence accordingly, or such Witness or Haver may be examined on Commission; and should such Witness or Haver, on being required, refuse to attend the Commissioner, or give evidence as a Witness, or to exhibit and produce Writings as a Haver, the Party or his Mandatory may apply by a short written note and in a summary form to any of His Majesty's Courts of King's Bench, Common Pleas, Exchequer, or Chancery, or any of His Majesty's Justices of the Peace, or other Courts in England, Ireland, or other part of His Majesty's Dominions, for a Warrant,

Where Witnesses or Havers, or Parties reside furth of the Kingdom.

and it shall be lawful to any of the said Courts, or any of the said Justices of Peace, or other Courts, to grant Warrant to compel such Witness or Haver to attend before such Commissioner, and give Evidence, or exhibit and produce Writings, as aforesaid; and in case of his refusal so to do, it shall be lawful to any of the said Courts or any of the said Justices of Peace, to grant warrant to commit such Witness or Haver to prison, ay and until he shall attend on such Commissioner, and give evidence, or exhibit and produce writings, as aforesaid; and where a judicial examination of any Pursuer or Respondent residing furth of Scotland is allowed, or a reference to the oath of such Party is sustained, or where any such Pursuer or Respondent is allowed to be examined on any Jury trial, and it is inconvenient for such Party to attend the trial, or where any such Party is allowed to be examined on oath as a Haver, the Court, on a short written note signed by the Party or his Agent, may grant a Commission to a Commissioner to take the declaration or deposition of such Party, or as a Haver, and failing such Party, after receiving Notice, appearing before such Commissioner, and giving his declaration or deposition as a Party or Haver, the Lord Ordinary or Court may decide the cause against such Party, and find him liable in expenses.

On failure to lodge Papers ordered, Judgment to be pronounced.

28. That where a Respondent has made appearance, but failed to lodge Answers within the time limited, or if the Depute Clerk see cause to order an amendment of the conclusions of the writ, or prayer of the petition, or alteration of the Declaration or Answers within a certain time, and such Paper shall not be given in within the time fixed, avizandum shall, by such failure, be held to be made to the Lord Ordinary, without prejudice to the amendment, altered declaration or answers, or paper being lodged before transmission of the process to avizandum; and the Process may be forthwith forced back by caption; provided, that such caption shall hereafter be subscribed by a Principal or Depute Clerk of Session only; and shall be issued (after *Forty-eight* Hours' Notice by the Clerk, or Agent, to return the Papers to the Clerk, served on the Agent whose receipt stands for the Process, or any of his Clerks personally, or left for him at his chambers or dwelling-house) and strictly put in force; and if the amendment, or altered Declaration or Answers, or Paper, be not lodged before the said transmission, the Lord Ordinary shall pronounce such Judgment as the opposite Party may crave, not being inconsistent with the shape and nature of the Cause, against which the Party shall be reponed only upon a Reclaiming Note, signed by the Party or his Agent, to the Inner-House within the Reclaiming Days, and upon payment of such expenses as shall be thought reasonable, not exceeding *Two Guineas*, and producing with such Note the amendment

Process Caption.

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amendment or other paper ordered; and when a Note, signed as aforesaid, is given in within the Reclaiming Days, praying to be reponed against an Interlocutor of a Lord Ordinary, pronounced on failure duly to lodge a paper ordered or allowed by the Depute Clerk, to be given in within a limited time, the Inner-House Clerk shall not receive such Note, unless accompanied with the paper ordered; and the Inner-House, on considering such Note, may repone the Party, on payment of expenses, not exceeding *Two Guineas*.

Party may be reponed.

29. That the time limited for reporting Diligence for recovery of Writings or Remits, or Commissions for taking Declarations, Oaths of Parties, or Proofs, or for lodging Papers, or revised Papers ordered or allowed by the Depute Clerk, or the Lord Ordinary, or the Court, other than Reclaiming Notes, may be prorogated without the necessity of any application to the Depute Clerk, or Lord Ordinary, or the Court, if both Parties or their Agents consent; provided that such consent be given in writing under the signatures of the respective Parties, or their Agents; and a copy of such Prorogation shall be prefixed to the Paper when given in, as well as of the order to give in the same; and a Prorogation granted on the motion of one Party shall not preclude a Prorogation on the motion of the other.

Prorogation may be allowed of Consent.

30. That on the judicial examination of Parties being taken and lodged in process, or on the last and final lodgment or recovery of Writings, provided the same shall be duly intimated to the opposite Party or his known Agent, the Parties, without any special order, shall, within *Two* Days after said intimation is put into the Post-office, state in Notes at the foot of each of the last Papers, whether they agree or do not agree to close the Record on the original Writ, Declaration and Answers, and Alterations or Amendment, and on the written Evidence or judicial Examinations, (without requiring further proof by persons of skill or parole, or written Evidence, or Trial by Jury,) as now containing their full and final statements of facts; and if they agree to close the Record, the same shall be forthwith closed in manner hereinafter directed; and on the Record being closed, the Lord Ordinary, in that case, may allow parties or their counsel to be heard vivâ voce on such closed Record; and proceed to determine the Cause, with or without further argument, and pronounce Decree accordingly on the merits and for Expenses of Process and Extract, and of all manner of legal Execution, if found due to either Party; provided that such Judgment shall be subject to the review of the Inner-House by Reclaiming Note, as hereinafter provided.

Closing Record.

Hearing of the Cause by Lord Ordinary.

 31. That

Where Parties do not agree to close the Record.

31. That where the Parties do not agree to close the Record on the original Writ or Petition, Declaration and Answers, and Alterations or Amendments if any, and on the written Evidence or judicial Examinations, unless they shall be allowed to revise their Declaration, Answers and Notes of Pleas, the Process shall be forthwith transmitted by the Clerk, without an inrolment, to the Lord Ordinary, at chambers, to have the Record adjusted; and the Lord Ordinary may allow Parties or their Agents or Counsel to be heard in his Motion Roll or in Chambers, on the state of the Process; and, after which either Party, by the leave of the Lord Ordinary, and in his presence, may make such farther additions or alterations on their Pleadings as may be necessary or proper: Provided, That the Lord Ordinary, if he see cause, may appoint the corrected Declaration or Answers, or any part thereof, to be delete, as improperly prepared, or as containing impertinent, scandalous, or surplusage matter, or clean copied; and the Lord Ordinary shall award, in favour of the Party not to blame, the expenses thereby occasioned, against the Party in fault; but none of the Pleadings shall be withdrawn, in order that new Pleadings may be substituted; and if it appear to the Lord Ordinary that the Parties have respectively admitted in the Record, or in the Answers to the Interrogatories, or the judicial Examinations, or have produced or recovered sufficient written evidence to prove or disprove all the facts requisite for the decision of the Cause, so as to render any further inquiries by persons of skill, or proof by Writing or Witnesses, or trial of the facts by Jury unnecessary, he shall pronounce an opinion to that effect, and specially find the facts admitted in the Pleadings or not denied, and therefore held as admitted or proved, and also the facts proved by the Answers to Interrogatories, or the judicial Examinations, or written Evidence, reserving the Expenses to the end of the Cause, but no Reclaiming Note to the Inner-House against this Interlocutor shall be competent; and he shall then proceed to direct the Parties to close the Record; and in the event of the Record being then closed, the Lord Ordinary may allow Parties or their Counsel to be heard, vivâ voce, on such closed Record, and proceed to determine the cause with or without further argument, and pronounce Decree accordingly on the merits and for the expenses of Process and Extract, and of all manner of legal execution, if found due to either Party, and such judgment shall be subject to the review of the Inner-House by Reclaiming Note, as hereinafter provided; and in the event of the Record not being closed, the Lord Ordinary may either order revised Declarations and Answers, and Notes of Pleas in Law, as hereinafter mentioned, or he may find that the Admissions and Evidence are not sufficient for

Pleadings may be ordered to be withdrawn or delete.

Finding by Lord Ordinary as to state of Admissions or Facts proved or disproved.

Where Record afterwards closed, Cause to be heard before and determined by Lord Ordinary.

Where Admissions and Evidence not sufficient.

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for the decision of the Cause, and that further inquiries, or a proof of the Averments of Parties, or a Trial by Jury are necessary, and direct the Cause to be further prepared by ordering revised Declarations and Answers, and Notes of Pleas in Law, and appoint Issues to be prepared, where they appear to the Lord Ordinary to be necessary, as after mentioned; or the Lord Ordinary may take the Cause to report to the Inner-House, either verbally by issuing and ordering to be printed and boxed for the Inner-House, Notes of his opinion on the points to be determined, and of the admissions or proof of facts, or by ordering the Record, so far as prepared, and Evidence, and his own Opinion, to be printed, and boxed for the Inner-House.

Revised Declarations and Notes of Pleas, and Revised Answers and Notes of Pleas.

32. Provided always, That where the Parties do not agree to hold the Declaration and Answers, and Alterations, if any, with the Amendments thereof, if any, as setting forth fully the Facts and Pleas respectively founded on by them, the Lord Ordinary, if he think fit, may allow the Parties within such time as he shall appoint, to revise their Declarations and Answers and Notes of Pleas, and make such alterations thereon as may appear to them to be necessary, in order fully to meet the Averments and Pleas; and the Pursuer in his revised Declaration shall answer, and admit or deny the Respondent's statement of facts in his Answers, under a separate head, to be intituled, "Answers to Respondent's Statement of Facts," and each being a separate and complete paper; and the Lord Ordinary, before closing the Record, may order Issues to be prepared by each Party when they appear to him to be necessary; and to the preparation of such revised Papers the same Rules shall be applicable as are hereinbefore provided with regard to the preparation of the original Declaration and Answers; and in order that the Averments of the Parties may be finally adjusted with due regard to the matter of Law to be maintained by them respectively, each of the Parties shall subjoin to his revised Declaration and revised Answers, (but the conclusions of the original Writ and separate Amendment thereof, if any, shall remain without being altered or extended in legal principle or effect, or re-copied), revised Notes of Pleas in Law, and revised Answers thereto, set forth in distinct propositions, and accompanied by a reference to the authorities relied on; and the Pursuer, in his revised Note of Pleas, shall admit or deny the Respondent's Pleas in Law; and the Respondent, in his revised Answers, shall admit or deny the Pursuer's Pleas in Law.

Final adjustment of Declarations and Answers and Notes of Pleas.

33. That as soon as the respective Averments and Notes of Pleas in Law are adjusted and seen by both Parties, and Issues are prepared where specially ordered, the Clerk to the Process, before

before closing the Record, shall forthwith transmit the Process to the Lord Ordinary for his final examination; and the Parties, or their Agents or Counsel, shall appear before the Lord Ordinary at his chambers, or otherwise, at such time as shall be intimated by Post *Forty-eight* Hours previously by the Clerk to the Process to the Agents of Parties, for the purpose of finally adjusting the respective Averments in fact, and Notes of Pleas in Law; when it shall be the duty of the Lord Ordinary to hear the respective explanations of the Parties, or their Agents or Counsel, and to examine the statements of facts respectively, and of the Pleas in Law as applicable to the cause and conclusions of the Action, and Answers, and Issues where necessary, and to suggest any new Plea which may to him appear necessary to exhaust the whole disputable matter in fact or law in the Cause; after which the revised Declarations and Answers, and relative Notes of Pleas, shall be subscribed by the Parties or their Agents; and it shall be mentioned by whom the paper was drawn or revised, or settled, and the Record shall be closed; and the declaration of the Parties closing the Record shall also be signed by the Parties or their Agents; and before any Order shall be pronounced or Judgment delivered as to the disposal of the Cause, the Record of Pleadings and Issues where necessary, as adjusted, and declaration closing the Record, shall be authenticated by the signature of the Lord Ordinary, and thereafter the Lord Ordinary shall pronounce such Order as shall appear to him to be necessary for the farther disposal of the Cause, before judgment on the merits of the Cause shall be pronounced by the Inner-House; and after this, no new Pleadings, and no further Revisal shall in any case be allowed, except on cause shown, and on payment of the whole Expenses, as shall be taxed, occasioned by the additional Pleading or Revisal, which it shall be imperative on the Lord Ordinary to award against the party whose mode of Pleading has occasioned the necessity for the additional Statement or Revisal.

Appearance before Lord Ordinary at his Chambers.

Declaration of Parties closing the Record.

Record and Declaration closing to be authenticated by the Lord Ordinary.

No other Pleading or Revisal, unless on payment of whole previous Expenses.

In case of failure duly to close the Record, Decree to be pronounced.

34. That when a Party, after reasonable time and opportunity for revision and adjustment of the Averments and Pleas in Law have been afforded by the Lord Ordinary, shall fail to close and authenticate the Record in terms of this Act, or to state any satisfactory ground for further delay, avizandum shall be held as made, and the Lord Ordinary shall pronounce such Judgment as the opposite Party may crave, not inconsistent with the shape and nature of the Cause; against which the Party shall be reponed, only upon a Note, signed by the Party or his Agent, to the Inner-House, within the Reclaiming days, and upon payment of the whole of such expenses as shall be taxed, and consenting

consenting to close the Record immediately; provided that where the Cause has been disposed of before closing the Record, either where the case has been determined by the Lord Ordinary on preliminary procedure or otherwise, or by the Inner-House and it remains only to determine the matter of Costs or Expenses, the Lord Ordinary, or the Court, may give Judgment on the matter of Costs or Expenses without requiring a closed Record.

Where matter of Costs only to be determined not necessary to close the Record.

35. That the Record so made up, and authenticated, shall be held as foreclosing the Parties from the statement of any new Averments in point of fact, and shall be held as the sole grounds of Action, Averments in point of fact, and Pleas in Law for the Pursuer, and of the sole Denials, or Averments, or Defence on the merits and Pleas in Law for the Respondent, and to which the future arguments of the Parties shall be confined; and no re-revisal of the Amendments of the conclusions of the Writ or Prayer of the Petition, or altered or revised Declaration or Answers shall be allowed after the Record shall have been so completed under the exceptions hereafter to be mentioned, or any further written Pleadings; provided that either Party, on paying full expenses to the opposite Party, may add any Statement or Plea which has been omitted in the preparation of the Cause; and further provided that the Pursuer, before an Interlocutor is pronounced, assoilzing the Respondent, in whole or in part, or leading by necessary inference to such absolvitor, (but not afterwards), may abandon the Cause, on paying full Costs or Expenses to the Respondent, or bring a new Action if competent.

Record made up and closed, to foreclose the Parties in point of fact.

Either Party may add Omissions, or the Pursuer may abandon the Cause, on payment to opposite Party of Respondent's full Costs.

36. Provided always, That either Party in the course of a Cause, or after the Record is closed, may state matter of fact noviter veniens ad notitiam, or coming to the knowledge of such Party, or emerging since the commencement of the Action, if on cause shown, leave shall be obtained from the Lord Ordinary or the Court, so to do, the said Party paying such Expenses (if any) as may be deemed reasonable by the Lord Ordinary or the Court, not exceeding *Two Guineas*; and if leave be granted, the new matter shall, within a time to be limited, be stated in the shape of a specific Declaration, framed as above, and have subjoined the Plea in Law arising therefrom; a copy of which specific Declaration, and Plea of Law, shall be furnished to the adverse Party at least *Forty-eight* Hours before the Enrolment, to apply for leave to lodge the same; and the adverse Party shall in such case be ordered within a reasonable time to put in his Answers to such Declaration and Plea, to be adjusted

First Exception of Res noviter veniens ad notitiam.

How such a matter shall be admitted on the Record.

Second Exception of new Pleas admitted with the leave of the Court.

adjusted and made a part of the Record as before directed: Provided further, That where any new Plea or ground in law shall after the completion of the Record, be in the course of the Cause suggested either by the Lord Ordinary or the Judges in the Inner-House, or by the Party, as fit to be discussed in relation to the facts as already set forth, such Plea, with leave of the Lord Ordinary or the Court, may be added to the Note of Pleas authenticated by the Lord Ordinary as before directed.

Appendix to Declaration and Answers and Proofs or Writings admitted or rejected, to be authenticated by Lord Ordinary.

37. That where there has been any proof brought forward, either by Writings produced and admitted by the Parties, or allowed to be produced by the Lord Ordinary, or by examination of the Parties or Witnesses, no part of such proof, otherwise than as statements of fact, shall be embodied in the pleadings of Parties in process; but where reference is necessary thereto in support of any statement of fact, such reference shall be made briefly on the margin of the pleading; and a short Reference shall be made by the Parties or the Lord Ordinary previously to or at the time of pronouncing his final judgment in a note to such Proof and Writings, so as to indicate how much, and what passages thereof, the Parties deem necessary to the support of their statements or pleas, and what parts thereof may have been tendered and allowed, or rejected by the Lord Ordinary, and which shall be authenticated by the Lord Ordinary, and headed as follows:

Appendix to Declaration for A. (or Answers for B.)

"Proof adduced and admitted by the Parties, or allowed or rejected by the Lord Ordinary" (and where any particular kind of Evidence has been tendered, but rejected as inadmissible by the Lord Ordinary, or the Court, the tender of such Evidence and its rejection shall be stated in the said Appendix by the Parties, or referred to in a Note by the Lord Ordinary, and authenticated by him, or by the Principal Clerk to the process where the rejection has been made by the Court; but care shall be taken to exclude from such Appendix reference to any Document or Writing, or part thereof, which, although recovered by a Diligence against Havers, or produced by the Parties, shall not have been admitted by the Lord Ordinary, or shall not be material or pertinent to the cause); and such Appendix shall regulate the extent of future copying or printing of such written or parole Proof in the cause.

38. That

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38. That where the Record has been made up on the original Writ, or Amendment, or original, or altered or revised Declaration, and Answers, or revised Notes of Pleas, and the Appendix arranged and authenticated as above directed, and it may be necessary to copy or print the Record and Appendix, the same shall be copied or printed, so that the Answer to each article shall immediately follow the corresponding article in the Declaration; and when a proof has been led in the Court of Session, or the Cause has depended in another Court, and a Proof led, and where it is necessary, for the consideration of the Court, to print the same, and any Productions which have been made, and admitted or rejected, and authenticated as aforesaid, Letters shall be fixed on the Margin for the more ready reference; provided, that where the proof or productions may extend, as above-mentioned, to upwards of sixteen ordinary printed pages, the Parties shall not, unless of their own option, print any part of the same for the consideration of the Inner-House; and the principal proofs and productions shall be transmitted by the Clerk to the Process to the Lord President of the Division, and after perusal by him, to the other Judges, by whom the same shall be perused, and thereafter returned to the Clerk.

Form of copying or printing Declarations and Answers, and Proofs and Productions.

39. That after the Record of the Averments and Pleas shall have been adjusted and closed, as hereinbefore directed, and when it shall appear to the Lord Ordinary that the Parties have respectively admitted on the Record all the Facts requisite to the decision of the Cause, so as to render any further trial of the facts unnecessary, the Lord Ordinary shall pronounce an opinion to that effect, against which there shall be no Reclaiming Note to the Inner-House; after which Great Avizandum to the Inner-House shall be held as made by the Lord Ordinary, and the Pursuer may forthwith print and box the Record for the Inner-House, at the mutual Expense of Parties.

Of proceeding to the farther disposal of the Cause.

40. That where the Parties differ as to facts which do not require to be ascertained by Proof, or a Jury Trial, the Lord Ordinary shall give such orders and directions for the ascertainment of the facts as to him shall appear expedient; and his Order for disposal of the Cause shall be final, unless brought under review of the Inner-House, in the Form hereinafter directed, within *Twenty-one* Days after such Order is pronounced; and if so brought under review, the Interlocutor of the Inner-House shall be final, without Appeal to the other two Divisions of the Court, or to the House of Lords, unless on leave expressly granted, reserving the effect of any objection to the course of

Of the ascertainment of the Fact otherwise than by Admission.

proceeding in any final Appeal to the said two Divisions, or the House of Lords, on the merits of the Cause.

Of Remits for Jury Trial.

41. That where the Parties differ as to facts which require to be ascertained by Jury Trial, the Lord Ordinary, before or after closing the Record, may either remit the whole Cause to the Issue Clerks to prepare Issues, or to send a particular Issue or Issues in order to have such matter of fact ascertained as he may deem necessary for deciding the Cause; and the Order by the Lord Ordinary in so far as it thus remits a Cause, shall be final.

Trial without a Jury, if Lord Ordinary or Parties think fit.

42. That if it shall appear to the Lord Ordinary in any Cause, including any Jury, Maritime, or Consistorial Cause, which depends before him, that it is fit and proper to try such Cause without a Jury, and by taking a Proof by Witnesses, or Oath of Party, before himself or on Commission, or if both Parties in any Cause shall agree between themselves, or their Agents, not to try the Cause by means of a Jury, but only by the Court, or by taking a Proof by Witnessess before the Lord Ordinary, or on Commission, and shall sign a Minute to that effect, or if one of the Parties make a reference to the Oath of the opposite Party, the Lord Ordinary shall try the Cause without a Jury, and allow a Proof by Witnesses, or Oath of Party; and such Proof shall be taken by the Lord Ordinary in the Cause as hereinbefore provided in the case of Examinations of Parties or Havers; and where such Witnesses, or Party, reside furth of Scotland, the Lord Ordinary shall remit to a Commissioner furth of Scotland, to take the Proof, and to report; and on advising such Proof, the Court shall pronounce Judgment in the Cause; provided that the Lord Ordinary, where the proof is taken in his presence, shall at the advising give any explanation to the Court which may be necessary with respect to the evidence taken, or Witnesses examined before him; and further provided that no Appeal shall be competent against the Judgment of the Division to the House of Lords, on the matter of fact; but such Appeal shall be permitted on matter of law only, including the admissibility of evidence, or the competency of a question to a Witness, or the admissibility of a Witness.

Discussion on the Merits.

43. That after a revised Declaration and Answers have been ordered, and the Record closed, where a Cause by means of Admissions, or from the nature of the Cause, shall be deemed fit to be discussed and determined by the Court without having recourse

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recourse to Jury Trial, or where the Parties concur in desiring to have a question of law or relevancy determined previous to a Trial by Jury, or when it shall be finally ordered by the Lord Ordinary or the Inner House that any question of law or relevancy shall be determined previous to Trial, or when the Cause shall come with a verdict on a Special Issue sent for Trial; in these, or in the like cases, the Court shall proceed to hear Parties or Counsel, and decide the matter to be determined, and the question of Costs, or supersede consideration of them till the final determination of the Cause.

XI.

No Cases written or printed to be ordered, but Points formerly argued in that form to be stated vivâ voce.

And be it Enacted, That the Lord Ordinary, or the Inner-House, shall not in any instance order the whole or any part of a Cause to be argued in Cases written or printed as heretofore; and the points formerly argued in the form of "Cases," shall in future be stated to the Lord Ordinary or the Court, by the Parties or their Counsel, vivâ voce; but a short note of the Authorities founded on may be lodged in Process, or at the Bar, before the calling of the Cause, or in the afternoon of the same day on which the Parties or their Counsel shall have been heard vivâ voce, and a Copy of such Note of Authorities shall be forthwith transmitted by the Clerk to the Process to the Judges.

XII.

Declarations in Actions may be prepared and signed by Parties or their Agents, or others, and Answers, or revised Declarations and Answers, and Notes of Pleas by the Parties or others.

Right of Parties to prepare and sign their own Pleadings, or plead vivâ voce.

And be it Enacted, That Declarations and Answers, or other Pleadings, and Notes of Pleas in Law, forming the Record, may be prepared, revised, or settled by the Parties, or their Agents, or others; it being always truly stated by the Agent, by whom the Paper was drawn, revised or settled; and which Statement he shall sign, and be responsible to the Court for the accuracy thereof; and every Party shall be entitled to prepare all Pleadings for himself and sign them, or he may employ Agents, or others, at his option, to prepare, revise or settle his Pleadings, according to the Rules and Regulations herein contained, or the Party may plead vivâ voce himself, or employ Counsel, if necessary, to plead for him; and Costs, or Expenses, shall be given, and taxed according to the Table of Fees and Practice, whether the Pleadings are prepared by the Parties, or their Agents, or others.

XIII.

Proceedings in Classes of Actions in which the Forms of Process are different from ordinary Actions.

AND whereas, according to the forms now observed in the Court of Session, there are certain classes of Actions, whether extraordinary, summary or otherwise, in which the forms of Process and the mode of procedure and discussing the Cause are in some respects different from ordinary Actions; but it is expedient that all classes of Actions, whether extraordinary, summary, or otherwise, as aforesaid, should as nearly as may be, consistently with the nature and object of the Action, be prepared for decision and discussion according to the regulations in ordinary Actions hereinbefore enacted;

To commence by short Waits and Declarations before Lord Ordinary.

BE it therefore Enacted, That all such Actions shall be raised by short Writs, containing Conclusions, and Petitions with Prayers and separate Declarations, Copies of which shall be served on the Respondents, as in the case of ordinary Actions, and shall be fixed in the Depute Clerk's Office, and before the Lord Ordinary, whose names are marked on the Writ, or Petition, and Copy, served and inserted in the Register, or Minute Book, kept by such Depute Clerk of Session and his Assistant, without being taken in the first instance before the Inner-House, and thence remitted back to the Lord Ordinary for discussion; and the Special Pleadings forming the Record shall be prepared and the Case determined according to the regulations with regard to ordinary Actions, and the additional regulations hereinafter mentioned, as may seem best calculated for the due investigation and decision of such Causes according to the principles and mode of procedure above provided with regard to ordinary Causes; and with regard to the above classes of Causes, which are different from ordinary Causes, the following regulations shall be observed in preparing and closing the Record in the Outer-House, for judgment by the Inner-House on the merits:

Special Pleadings forming the Record.

Regulations in such Actions and others.

No remits to Lords Ordinary of such Causes.

1. That no remit shall be made to the Lord Ordinary for the purpose of preparing any such Cause; and every such Cause without any remit shall, in the first instance, be brought before a Lord Ordinary, and prepared by him for judgment, like an ordinary Action, as is hereinbefore provided.

Reductions may be remitted ob contingentiam.

2. That the Lord Ordinary may remit Recissory Actions to be conjoined with any other process in which the Parties are concerned, depending before the Inner-House, or before any one of the Lords Ordinary of any of the divisions.

Procedure in Reductions.

3. That in Actions of Reduction, if no Answers for the Respondent have been returned to the Pursuer's Declaration, it shall be held, unless in particular cases where the Pursuer himself must produce the Writs called for, that the Respondent is to satisfy the production, and he shall take a day to satisfy the production, and which he shall satisfy by that day, unless he shall have obtained a prorogation from the Depute Clerk before that day, or by the consent of Parties or their Agents, and so soon as the production is satisfied, the Depute Clerk shall prepare the Cause for decision, by ordering Answers, after which the Record shall be made up by amended conclusions of the Writ, or revised Declarations and Answers and Notes of Pleas in law, as in the case of an ordinary Action; provided, that in Causes where Articles Improbatory and Approbatory were required by the former practice, the Record shall be

Form of Articles Improbatory and Approbatory in Improbations.

be made up, by ordering a Declaration of Articles Improbatory, and Answers, containing Articles Approbatory, which, if necessary, shall be altered, and, if allowed, revised and accompanied with Notes of Pleas in Law; and further provided, that such papers, when finally adjusted, shall be signed by the Parties respectively, except where on cause shown, and in respect of the particular circumstances of the case, it may be deemed necessary by the Depute Clerk to dispense with the signature of a party, and without prejudice in other respects to the forms of procedure heretofore observed in such cases.

Complaints against Magistrates of Burghs, and for Malversation or Breach of Interdict, or Contempt of Court.

4. That in Petitions and Complaints against Magistrates, or Officers of the Law, or members, or Officers of the College of Justice, or Judicial Factors, or Factors loco tutoris, or other Managers appointed by the Court for Malversation, and against Parties for breach of Interdict, or Contempt of Court, which shall be signed by the Party or his Agent, the same form of precedure as nearly as the nature of the Cause will allow, shall be observed as that prescribed in ordinary Causes; and provided always that in any of such Actions the Lord Ordinary in taking them to report shall do so upon the original Petition, and original or revised Declaration and Answers, and Notes of Pleas in law, being made up and closed, without Cases, before Judgment is pronounced.

Fraudulent Bankruptcy.

5. That in Petitions and Complaints for Fraudulent Bankruptcy, the Depute Clerk shall hear Parties or their Agents on the Declaration and Answers, and prepare the Cause either by a remit to an Accountant to examine the Books of the Bankrupt, and report, or the Lord Ordinary may order a revised Declaration and Answers, and the Record to be closed; and the Court may hear the Parties or Counsel either upon the original or amended Writ or Petition, and the original or altered Declaration and Answers, and Accountant's Report, or the revised Declaration and Answers, and pronounce Judgment as accords, or order such proof or investigation as the Court may deem necessary or competent, or remit the Cause to be tried by Jury, or otherwise, as the Court may see cause.

XIV. Proceedings under the Bankrupt Act.

And be it Enacted, That the following three regulations shall be observed in all proceedings, under the present or any other Bankrupt Act.

Applications for Sequestration, Personal Protection. Appro-

1. That Petitions for Sequestration, Approval of Composition and Discharge, or other summary Applications, (where service on the

val of Composition and Discharge.

the opposite Parties concerned is not required), shall be signed by the Party or his Agent, and given in and registered as hereinbefore directed with regard to all other Actions; and the Clauses of the Bankrupt Act founded on, shall not be quoted at length, but merely referred to by particular Sections of the Act; and thereafter the Lord Ordinary, where no appearance or opposition is made, or the Court, if appearance be made, shall award the Sequestration, or pronounce Judgment, in the usual terms.

Petitions and Complaints against Decisions of Trustee.

2. That Petitions and Complaints against the Decisions of the Trustee under the Bankrupt Act, ranking the Creditors, and for approval of composition and granting discharges to Bankrupts; and also Petitions and Complaints against Interim Factors or Trustees under the said Bankrupt Act, for malversation in office, and all others of the like nature, shall be signed by the Party, or his Agent; and the declaration or statement of facts on which the application is founded, shortly referred to in the application, and prepared in the terms prescribed as in the case of an ordinary action; and a copy of the application, and of the Declaration in the application, shall, previously to being presented to the Lord Ordinary, be duly intimated to the opposite Party without a Special Warrant of Service, and the same shall be duly registered by the Depute Clerk of Session, or his Assistant, in like manner as other Actions; and the Respondent shall lodge Answers to such Declaration within *Fourteen* Days after Service; and the same procedure in preparing the Pleadings, and adjusting and closing the Record, followed as in ordinary Actions.

Petitions and Complaints against the Resolutions of Creditors.

3. That in Petitions and Complaints against the Resolutions of Creditors, which generally relate to a question of expediency in the management, the statement of facts shall be made in a separate Declaration as aforesaid, and the Petition and Complaint, signed by the Party or his Agent, registered as in other Actions, and intimated without a Special Warrant of Service by a Copy thereof, and of the Declaration, and of the Note of Writings and Admissions called for, if necessary, and the Lord Ordinary shall hear the Parties, or their Counsel, on the Complainer's Declaration, and also on the Answers, if lodged, as in ordinary causes, and give Judgment de plano, unless he shall order a revised Declaration and Answers, and Notes of Pleas, and a Record to be closed; and in the latter case the cause shall be decided by the Inner House.

AND

XV. Lord Ordinary may proceed in Vacation in certain cases.

AND whereas it may be necessary that in cases under the Bankrupt Act, and also in Processes of Cessio Bonorum, Adjudication, and Ranking and Sale of Heritable Property, or Ships, and in Reclaiming Notes coming in place of Advocations against the Judgments of the Sheriff and other Local Courts, or in Writs of Suspension, in so far only as regards the passing of such Writs of Suspension, and the examination, completion and closing of the Record, in such Reclaiming Notes and Suspensions, and in applications for the prevention of the loss of Evidence by the death of Witnesses, either in processes depending permanently before the Lords Ordinary during Session, or called or presented for the first time during Vacation or Recess, should be proceeded in during the not sitting of the Court: AND whereas by the Bankrupt Act in the fifty-fourth year of the reign of his Majesty King GEORGE the Third, above recited, it is enacted, that the Lord Ordinary on the Bills shall have the full powers of the Court in ordering and following out the different steps of proceeding required by the Act, while the Court is not sitting (excepting in the case of a discharge, as therein mentioned); BE it Enacted and Declared, That in all cases under the said Bankrupt Act, which at the rising of the Court, prior to the Vacations or Christmas Recess, may be depending before any of the Lords Ordinary in the Outer-House, or in the Inner-House of any of the Divisions of the Court, and in Processes of Cessio Bonorum, and Adjudication, and Ranking and Sale of Lands or Ships, or in Reclaiming Notes against the Judgments of any of the other Courts or Writs of Suspension, (in so far as regards the passing or refusing Writs of Suspension, and the examination and completing the Record in such Reclaiming Notes or Suspensions), as well those already depending as those presented or called for the first time during Vacation or Recess, and applications for the prevention of the loss of Evidence in a depending Process as aforesaid, any of the Lords Ordinary officiating during the Vacations or the Christmas Recess, to whichever Division he may belong, may proceed without any special remit from the Court to him; provided, that with regard to the prevention of the loss of Evidence, as aforesaid, the said Lord Ordinary officiating during the Vacations or Recess, after hearing objections, if any shall be made, may allow a proof by Witnesses, on an application, signed by a Party or his Agent, intimated *Forty-eight* Hours before, to the known Agent of the opposite Party without a special Warrant of Service, and on production of a Process depending before a Lord Ordinary in the Outer-House or in the Inner-House of any of the Divisions, or of a Writ or Summons raised before the Court of Session, and Declaration duly registered and executed, or Reclaiming Note against the Judgment of any of the other Courts, Writ of Suspension and Declaration, if any, or a certified copy of such Writs and Declaration, if any, and Citation served on the Respondent, or on production of any Submission,

54 Geo. 3. c. 137. s. 66

Prevention of the Loss of Evidence.

mission, judicial or extra-judicial in Scotland; and which proof shall be taken before the Lord Ordinary in any judicial proceeding, as hereinbefore provided, or the Arbiter in any Submission; provided, that the evidence of the Witnesses to be examined is in danger of being lost, owing to great age (not under Seventy Years), or to severe indisposition, or to their intending to go abroad, and to remain abroad for a considerable time, and such Examinations shall be sealed up by the Lord Ordinary officiating during Vacation, or the Commissioner as hereinbefore provided, and lie in retentis, subject to future orders of Court; provided also, that such Examinations shall be limited to matters of fact, to be set forth in a correct declaration for the Party making the application, with or without Answers thereto; and also provided, that the Party making the application shall state, and, if required, shew, to the satisfaction of the Lord Ordinary officiating during Vacation, that he was unavoidably prevented from making it to the Lord Ordinary in the cause, or to the Court, during Session; and further provided, that in such cases the Lord Ordinary officiating during the Vacations or Recess shall have the same powers in all respects as would have been competent to the several Lords Ordinary in the Outer-House, or any of the Divisions in the Inner-House, if they had been called during Session to exercise the same, and as if the case had continued to depend before such Lords Ordinary in the Outer-House, or the Inner-House; and it being further provided, that if either of the Parties shall, where competent, present a Reclaiming Note against any deliverance so pronounced by any of the Lords Ordinary officiating during the Vacation or Christmas Recess, he shall reclaim to any of the Divisions of the Court to which the Lord Ordinary in the Outer-House, before which the case was originally fixed, belongs, which Division shall be marked by the Pursuer on the original Writ before calling the same.

Where proceedings reclaimed against.

XVI. Regulations in Processes of Cessio Bonorum.

AND whereas His Majesty was pleased, by Letters Patent, dated the sixth day of June One thousand eight hundred and Thirty-three, to appoint certain Commissioners to inquire, inter alia, "as to the form of enforcing Judicial Decrees by the Diligence of Horning, and Caption and Imprisonment, and the expediency of any alteration in the Law or Forms touching such proceedings:" And whereas the said Commissioners have made a Report, from which it appears that great hardship is frequently suffered by persons in consequence of Imprisonment for Civil Debts, without producing thereby adequate benefit to their Creditors, and that the humane relief granted by the law of Scotland to Insolvent Debtors by the process of Cessio Bonorum, is in some respects imperfect and requires amendment; and it is expedient to render the said process less expensive to such Debtors in obtaining such Relief, and to their Creditors, in securing and recovering the property of such Debtors for behoof

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behoof of their Creditors; and it is also expedient to restrain Imprisonment for Civil Debt, unless the Debtor shall be held to have acted fraudulently towards his Creditors; BE it Enacted, That the following Sixteen Regulations shall be observed in Processes of Cessio Bonorum:

Title to raise Action.

1. That where a Debtor receives a charge of payment, or shall thereafter be imprisoned for non-payment of debt, and finds himself insolvent or bankrupt, and unable to pay the debt, but is willing to convey the whole of his heritable and moveable property to his Creditors, or where a Person is willing to execute a voluntary Trust Deed of all his heritable and moveable property to a Trustee for behoof of the whole of his Creditors, or where a Person's estate has been sequestrated, or a Process of Ranking and Sale raised by him, or in his name, he, without suffering a month's imprisonment according to the practice heretofore followed, may raise before the Court of Session a Process of Cessio Bonorum against his Creditors.

To be commenced by Petition.

2. That this Action shall be commenced by a Petition, in the form contained in Schedule (A.) Number VII. hereto annexed, which shall be served or intimated as after mentioned without a Special Warrant of Service.

All the Creditors to be included in Petition but Service against the incarcerating Creditor, or his Mandatory only, and Intimation by Post to the other Creditors.

3. That the Bankrupt shall include all his Creditors in the Petition of Cessio Bonorum; but it shall be necessary to execute the same only against the charging or incarcerating or detaining Creditor, or the Mandatory of such charging, incarcerating or detaining Creditor, if he shall be furth of Scotland, on an Induciæ of *Eight* Days; and it shall be sufficient to send by post *Fourteen* Days before the meeting of his Creditors after mentioned, a Notice of such meeting, and a written or printed Copy of the said Petition for the benefit of the Process, and an Execution or Certificate of such service and intimation of such Notice and Petition, by an Agent of Court, or Messenger at Arms, and one Witness, or more Witnesses, that a copy of such Notice and Petition were sent by post to each of the Creditors properly addressed, shall be held as sufficient evidence of the lawful citation of such Creditors other than the charging, incarcerating or detaining Creditor, or his Mandatory as aforesaid; and the said Letter shall be marked, written or printed on the back "Cessio Intimation—Free," and pass through the Post-office free of postage.

To be seen by Creditors.

4. That when the Pursuer of the process lodges the Petition with the Clerk to the Process, to be registered in the Minute Book, he shall at the same time lodge a Schedule of his affairs, containing

Schedule of Debtor's affairs.

a concise and correct statement of his affairs prior to his receiving a charge of payment, or to his imprisonment, provided, that a Bankrupt whose estates have been sequestrated shall not be bound to make up such a detailed Schedule of his affairs, and the Pursuer shall at the same time lodge with the Clerk all Books, Deeds or Writings in any way relating to his estate and effects in his possession or under his control, and thereafter the Agent of any of the Creditors may borrow and shall return the same as hereinbefore provided, and the Resolutions of the Creditors.

Objection, that Creditors not all called.

5. That when an Objection is made that all the Creditors have not been included in the Petition, and that due intimation has not been made to them, the Objector shall lodge with the Clerk, when he returns the Petition, a list of the persons whom he alleges to be Creditors, and not to have been so included, in order that intimation may be made to them, which shall be competent without a new Petition, that they may still appear in the Process for their interest, if they think proper so to do; and neither the Objector nor any other Creditor (who has entered appearance) shall be afterwards allowed to repeat the same objection with new names; and the Pursuer shall be obliged to send Letters in manner foresaid to the persons in the list given him; but if any of them shall not prove Creditors, the Objector shall be found liable by the Lord Ordinary in the expenses of such Letters, and in any other expense occasioned by his Objection.

Interim Personal Protection.

6. That the Bankrupt being in possession of the Execution and Certificate of the service and intimation of the Petition and Notice, and a Certificate of having found caution as after mentioned the same shall effectually operate as a personal protection to such Bankrupt as may have received a charge, from being imprisoned until the meeting of his Creditors, or, in the case of a Bankrupt being incarcerated, the Bankrupt, on the said Execution and Certificate of the Service, and intimation of the Petition and Notice being shown to the Gaoler, and Caution being found as after mentioned, shall be instantly liberated by the Magistrates of the Burgh in which such Gaol is situated, without any written application for that purpose, provided that the Bankrupt, previously to being entitled to the benefit of such protection, shall find caution either in the Sheriff Court in whose jurisdiction he resides, or the Court of the Burgh in the said Gaol of which he is imprisoned, to attend all Diets of the Court of Session in the Process of Cessio.

Pursuer to attend Meeting of his Creditors.

7. That the Pursuer shall be entitled and bound to attend the meeting of his Creditors, and there produce the Notice calling the Meeting,

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ing, and the original Petition in the Process of Cessio Bonorum, and evidence of the execution and intimation thereof, and the said Schedule of his affairs.

Procedure at Meeting of Creditors.

8. That the Creditors at the Meeting shall be entitled to interrogate the Bankrupt on oath (which the Preses of the said Meeting for the time being is hereby authorized to administer) regarding his affairs, (except in the case where his estate has been sequestrated, or a Ranking and Sale of his heritable estate has been raised, in so far as regards his heritable estate); and his answers shall be distinctly and correctly reduced into writing, and form part of the Minutes of the Meeting; and the Bankrupt thereafter shall be heard by the Creditors either with regard to his claim to the benefit of the Cessio Bonorum, or the state of his affairs; and he shall then concur in nominating a Trustee or Trustees in succession to wind up his affairs, or the Court may afterwards decern and adjudge that the whole heritable and moveable property of the Bankrupt, wheresoever situated, shall be vested in and belong to such Trustee for behoof of the Bankrupt's whole just and lawful Creditors, without any other title, or he may offer a Composition to his Creditors, and the Creditors (or *Two-thirds* of the Creditors in number and value then present) shall deliberate thereon, and resolve to consent, or refuse to consent to the Court granting him the Cessio, or to resolve to accept the offer of Composition, or refuse such offer, and to appoint a Trustee or Trustees in succession to wind up the Bankrupt's affairs in such a manner as they shall direct; and the Creditors may require the Bankrupt to execute a Disposition omnium bonorum in favour of such Trustee or Trustees, on which no Stamp Duty shall be exigible, or dispense with the Bankrupt granting such Disposition, and in place thereof to require him to adhibit his Signature to the Minutes of the Meeting as evidence of his concurrence in the appointment of the said Trustee or Trustees; and where the Creditors decline to resolve either to give or refuse their consent to the Lord Ordinary or the Court granting the Bankrupt a personal protection, or the benefit of the Cessio hoc statu, they shall state the grounds of such declinature, such as that the Bankrupt had not furnished a correct Schedule of his affairs, or had been guilty of fraud, or had granted preferences, or the like, and had not got them restored, or had not concurred in nominating a Trustee for winding up his affairs, or granted a Disposition omnium bonorum, or had otherwise misconducted himself, or other reasons to be specified; and the Creditors, or *Two-thirds* thereof in number and value, assembled at the said Meeting, shall have power to give the Bankrupt a personal protection from Diligence for such length

of time as they shall think proper, or to refuse such personal protection.

Resolutions of Meetings to be lodged with Clerk to the Process.

9. That the Resolutions of the Creditors at this Meeting shall be forthwith lodged by the Bankrupt in the office of the Clerk to the Process, provided that in the event that no Creditor or Creditors shall attend the said Meeting of Creditors, the Law Agent of the Bankrupt shall certify the fact; and the Creditors shall be held as consenting to the Bankrupt obtaining the Cessio, or consenting to accept the offer of composition, if any, and to approve of the caution offered; and in case the Minutes of the Meeting of Creditors and the Process of Cessio shall not be lodged by the Bankrupt with the Clerk to the process, within *Eight* Days from the date of the said Meeting, any of the Creditors may put up Protestation in the Minute Book, for not lodging the Minutes of the Meeting, and which Protestation may be extracted, after the usual period, as in the case of Protestation for not lodging the execution of service as in ordinary Actions; and the Resolution of the Creditors shall be subject to the review of the Court during Session, or the Lord Ordinary officiating in Vacations, at the instance of any Party, as a matter of course, without any written Note or Application, in case the Bankrupt shall proceed with the Cessio Bonorum; and the Parties, or their Counsel, shall be heard by the Court vivâ voce, and if no further inquiry appears to be necessary, the Court shall determine the Cause de plano, by approving or altering the Resolutions of the Creditors, and granting or refusing the Cessio according to the justice of the case; provided, that the Decree of Cessio shall include a discharge of all Debts of the Bankrupt prior to the date of the Writ or Summons of Cessio; and further provided that the said Decree shall be extracted as an Interim Decree, and the process shall continue to depend in Court for behoof of the Bankrupt's Creditors; and no Debtor in his Petition shall pray, nor shall it be necessary in the Decree of Cessio to dispense with the habit, which shall not be worn by any Debtor obtaining the benefit of the Cessio.

Protestation for not lodging Minutes of Creditors, &c.

To be subject to Review of the Court in Session, or Lord Ordinary officiating in Vacations.

Judgment of Inner-House.

If further Procedure necessary.

10. That if the Court, before pronouncing Judgment, shall find it necessary to examine into the case more particularly, the Court may order a short written note of objections for the opposing Creditors to the Pursuer's Schedule of affairs, and, on being lodged, a revised Schedule of the Pursuer's affairs, and thereafter the Court shall hear Parties or their Counsel thereon, and give Judgment, or order such proof or investigation as may be proper; and the Court may refuse the Cessio in hoc statu, leaving it to the Pursuer to apply again on the expiry of such time as

shall

shall be fixed by the Court in their Interlocutor not exceeding *Three* Months without any new action; and on proof of fraudulent or blameable conduct on the part of the Bankrupt, the Court may, in granting the Cessio, fix in the Interlocutor a certain term, not exceeding other *Three* Months, within which it shall not operate as a personal protection.

Trustees to be appointed by the Court to act under the direction of the Creditors.

11. AND whereas Trustees, who have hitherto been appointed for the behoof of Creditors in Processes of Cessio Bonorum, have in many instances not accepted the office, or where they have accepted, have neglected to perform the duties incumbent on them; and it is expedient that the duties of Trustees, so appointed, should be efficiently performed, but in so far only as may be beneficial to the Creditors; BE it Enacted, That as soon as it is proposed to appoint a Trustee for Creditors in virtue of the Provisions in this Act, any of the Creditors, or their Agent, may intimate the same to such proposed Trustee by letter, or otherwise.

Intimation of Trustee's appointment.

Trustee to Report to the Court.

12. That at the same time, the Creditor's Agent shall borrow and transmit the Process of Cessio Bonorum to the proposed Trustee, and the latter shall forthwith examine the proceedings and return the Process to the said Agent of the Creditors, with a Report to the Lord Ordinary whether he is willing to accept the office of Trustee or not, and whether or not there appears to be any Property, Effects or Funds which require to be administered for the benefit of the Creditors.

Where no Funds, no Trustee to be appointed.

13. That if, from said Report or otherwise, it appears that there are no Funds or Effects to be administered for the benefit of the Creditors, no disposition omnium bonorum shall be granted, and no Trustee appointed, nor any further expenses be incurred, unless specially authorized by the Creditors.

Where there are Funds, meeting of Creditors to be called by Trustee.

14. That where it appears, from the Report of the proposed Trustee, or otherwise, that there are real or heritable Property, moveable Effects and Funds which require to be administered for the behoof of the Creditors, and that the proposed Trustee is willing to accept the trust, he shall, on the motion of the Creditors, be appointed by the court to be Trustee, and such Trustee shall forthwith call a meeting of the Creditors, and lay before them his Report, and state the probability of such Property, Effects and Funds being sufficient to pay the expenses of the trust without the Creditors being liable to any other extent than the amount of their dividends; and if so, the Trustee shall find caution to such an extent as shall be deemed necessary by and to the satisfaction of the Creditors present at such Meeting,

and the Bond of Caution shall be lodged with the Clerk to the Process of Cessio; and the Creditors shall appoint a Committee to instruct the Trustee and audit his Accounts.

Trustee at end of Three Months to render state of his intromissions to be audited by Committee.

Duplicate of State of Minute of Committee to be lodged in Court.

15. That at the end of *Three* Months, the Trustee shall submit a state of his intromissions to the Committee of Creditors, who shall examine and audit the same, and fix the amount of the Trustee's Commission, not exceeding *Five* per centum on the amount of the gross Funds realized, and appoint a Dividend to be paid to the Creditors of such Funds as shall have been realized; and a Duplicate of the said state of the Trustee's intromissions and of the Dividends, specifying those paid and those unclaimed, and minute of the Committee, shall be forthwith lodged with the Clerk of the Process to be patent to any of the Creditors; and the unclaimed Dividends shall be consigned in the name of the Principal Clerk to the Process of Cessio in any of the chartered Banks, and the Bank receipt lodged with him, within *Six* months from the appointment of the Trustee, and failing of which, the Trustee, and his Cautioner, shall be liable in *Twenty* Pounds per centum on such unclaimed dividends, over and above the legal interest thereof from the end of the said *Six* Months, and in time coming till consigned.

Trustee to wind up Bankrupt Estate within Six Months.

16. That should the Trustee neglect to pay or consign the Dividends, or wind up the Estate in terms of the directions of the Committee within *Six* Months from the date of his appointment, he and his Cautioner shall be liable to a summary complaint to the Court at the instance of any of the Creditors, provided, that such complaint shall be presented to the Court within *Three* Months from the expiry of said *Six* Months; but that should no such complaint be lodged against him within that period, no complaint shall afterwards be competent against him, and he and his Cautioner shall be held to have been virtually discharged of his management, except as to any Dividends unpaid or not consigned, or Funds undivided.

XVII. Regulations in processes of Adjudication.

AND in order to lessen the number of Adjudications for Debt, and consequently the expense to all Parties, and to facilitate the pari passu preference of Creditors in similar circumstances; BE it Enacted, That the following Regulations, being four in number, shall be followed in all Processes of Adjudication:

Intimation in the Gazette, &c.

1. That the first Writ or Summons of Adjudication shall be held a continuing or subsisting process to the effect of attaching the whole lands and estate of the Debtor, for the benefit of all his Creditors who shall appear and require to be conjoined within year and day from the date of the Gazette publication of such Adjudication

cation hereinafter mentioned; and after such intimation, no other process of Adjudication shall be raised; and in such process of Adjudication against any estate for payment or security of debt, if no satisfactory cause be shown why the Adjudication should not proceed, the Lord Ordinary shall pronounce an Interlocutor, allowing all Creditors having liquid grounds of debt to appear and be conjoined in the Adjudication, and ordaining intimation thereof to be made in the Minute Book and on the walls of the Court, and by advertisement in the Edinburgh Gazette; and on the expiration of *Three* Weeks after such notice, the cause shall be called again before the Lord Ordinary, when the Pursuer may move for a Decree of Adjudication on his own debt, and the Lord Ordinary shall at the same time declare the whole lands and others included in the original Writ or Summons of Adjudication, to be a fund for the common behoof of the several Creditors whose debts shall be sustained as duly constituted, and in whose favour Decree of Adjudication shall be pronounced within the above term of pari passu preference, and to remain effectual as such to them in security and satisfaction of their several debts as thereafter to be accumulated, with interest, according to their several rights and preferences, but without prejudice to the validity and order of ranking of Decrees of Adjudication subsequent to the said term, on any residue of the said estates that may remain unexhausted, according to the rules of law; and any other Creditor of the common Debtor, (on a notice signed by an Agent of Court or a Messenger at Arms, being served *Eight* Days before the motion on such Debtor, or his known Agent in such Process, personally, or left at his dwelling-place before one Witness or more Witnesses,) who, within the above term of pari passu preference, shall produce an execution of service by an Agent of Court, or a Messenger at Arms, and a liquid ground of debt, or decree of constitution accompanied by a distinct statement and claim of debt, may also move the Lord Ordinary to the said process in time of Session, or the Lord Ordinary officiating in Vacation for a separate Decree of Adjudication in his favour to the amount of his claim, which shall in absence of the Debtor, if appearance be made for him, and no valid objections stated, be pronounced accordingly, reserving all objections contra executionem.

And Creditor may move for Decree of Adjudication on his Debt.

2. That each several Decree of Adjudication, at whatever time obtained, shall be forthwith duly recorded in the General Register of Sasines, and thereupon shall, without the necessity either of a Charter of Adjudication or Sasine, or a charge to the superior, or any further proceeding, constitute a real burden and

Each Creditor's Decree to be separately recorded, and constitute a real burden without Sasine.

and security over the lands and others comprehended in the Adjudication as effectual in competition with purchasers or the holders of real securities by heritable bond or otherwise, as if a Charter of Adjudication had been granted, followed by Sasine duly recorded of the date of the registration in the said Register of Sasines; and in virtue of such real burdens those Creditors who shall have obtained Decrees of Adjudication within the term of pari passu preference, may demand possession, or raise action of mails and duties, or may apply for sequestration of the rents as if he or they had obtained a Charter of Adjudicaton completed by infeftment, provided that such adjudication shall have no effect in transferring the said lands and others in property to the Creditor.

On expiry of the Legal, the Process may be revived.

3. That any Creditor having obtained Decree of Adjudication as aforesaid, after a term of redemption of *Seven* Years from the date of Registration of their Decree of Adjudication shall have expired, may apply to the Lord Ordinary to the Process or the Lord Ordinary officiating during Vacation, by a short note, signed by an agent, praying that the original Process may be resumed for the purpose of finally settling and satisfying him of his debt; and after due service of a copy of the said Note, without a special warrant of service upon the Debtor or his Representative, and on all co-adjudgers, personally, or left at his or their dwelling-places, and after notice in the Minute Book of Court and on the walls for a fortnight, the said Note may be resumed; and the Lord Ordinary to the Process, or Lord Ordinary officiating during Vacation, shall thereupon grant diligence for recovering and producing the Title-deeds of the Debtor's Estate, and make a remit to the Sheriff of the Sheriffdom within whose jurisdiction the lands lie, who shall thereupon make inquiry into the value of the lands adjudged, and report the same to the Lord Ordinary to the Process, or the Lord Ordinary officiating during Vacation, either of whom, as the case may be, on such Report, and a view of the titles, shall order such part of the lands to be exposed to public sale, either at Edinburgh or elsewhere, before the Sheriff, as shall be sufficient to satisfy the debt; and the price, or as much as shall satisfy the debt, shall be paid over to the Creditor or Creditors in discharge of his or their debts; and the title of the Purchaser shall be completed by registration in the Register of Sasines aforesaid, of a decree of irredeemable adjudication which such Lord Ordinary may and is hereby authorized to pronounce; and the Creditor or Creditors in such case shall be entitled only to payment of his or their principal sum, interest and expenses defrayed, as shall be taxed by the Auditor

Service on Debtor.

Lands may be valued and sold.

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Auditor of Court; and such Creditor or Creditors shall, if required, convey his or their debts and securities to the Purchaser in satisfaction of his title.

Adjudications in Implement.

4. AND whereas it is expedient that the same rule of equality should regulate the rights of all Creditors of Insolvents and Notour Bankrupts who at the date of Bankruptcy hold obligations merely personal; BE it Enacted, That no Adjudication in Implement shall proceed to decree, without an intimation by advertisement in the Edinburgh Gazette, as required in Adjudications for debt to the effect of enabling any Creditor of the common Debtor to raise an action of ranking and sale, if such shall be competent, or to follow out the proper measures for rendering the Debtor notour Bankrupt, to the effect of stopping the Adjudger in Implement from acquiring a preference over the other Creditors.

XVIII. Regulations in Processes of Ranking and Sale.

AND whereas the Forms of Process in Rankings and Sales of Bankrupt Estates require amendment and regulation; BE it Enacted, That the following Regulations, being Thirty-one in number, shall be observed in all Processes of Ranking and Sale of Bankrupt Estates:

Petition.

1. That every such Process of Ranking and Sale shall be commenced by a short Petition in the form contained in Schedule (A.), Number IX. hereto annexed.

Declaration.

2. That the grounds of the Action shall be stated in the form of a declaration, as contained in Schedule (B.) Number III. hereto annexed.

Title to pursue the Action.

3. That when a Proprietor of heritable Property finds himself insolvent, although not made legally bankrupt, or where he has been rendered legally bankrupt by any of his Creditors, the Bankrupt, or any of his Creditors in his name, and at his instance, having obtained a real right, completed by infeftment or otherwise in terms of law, or a Decree of Adjudication, or a personal Debt constituted by a Bill, Bond, or extracted Decree, to the extent of *One hundred* Pounds, may present a Petition to the Court of Session, in the said form, praying for a Ranking and Sale of all his heritable Property, situated in Scotland, for the benefit of all his just and lawful Creditors, and where the Petition is raised by the Bankrupt himself, that circumstance shall be held as a sufficient proof of his Insolvency and legal Bankruptcy.

Copy of Petition to be intimated to all the Bankrupt's Credi-

4. That a printed or written Copy of the Petition in the Action of Ranking and Sale, shall, *Eight* Days previous to calling the Petition in Court, be specially intimated by an Agent of Court,

tors by Post Eight Days before calling the Petition.

by Post, to all the known Creditors of the Bankrupt holding completed real rights, or a Decree of Adjudication, as aforesaid, and the execution of intimation by such Agent shall be held as effectual as if a Copy of the Petition had been personally served on each of the said Creditors, and as if an execution of such service had been returned by a Messenger-at-Arms; and

First Notice to Creditors to produce their Claims.

Notice of such Petition having been presented, and calling on the said Creditors of the Bankrupt and all others, and their Tutors and Curators, if any, having interest, to compear in the said Action, and produce their claims and interests, shall also, *Eight* Days previous to calling the Petition, be made and published once in the Minute Book of the Court of Session, the Edinburgh Gazette, and in such Newspaper in the town or neighbourhood where the lands lie, as shall be reputed to be in extensive circulation; and the execution of intimation of such Notice, and a Copy of such Gazette and Newspaper, shall be produced along with the Petition on being called in Court.

Effects of Process of Ranking and Sale.

5. That from the date of raising and registering the Petition with the Clerk to the Process, the process of Ranking and Sale shall be held to interpel the Creditors from proceeding with any Diligence against the Bankrupt, by legal process, for attaching any part of his heritable Estate by adjudication or otherwise; and no Creditor or Assignee of the Bankrupt or Purchaser from the Bankrupt or from such Assignee, shall thereafter by infeftment, or any other manner of way, complete any other right and title in his person which was at the date of raising and registering the said Petition incomplete or defective; and in competition with the Creditors or others who have obtained securities for prior Debts, and where a fair and bonâ fide value had not been given of the date of such securities, and had the same completed by sasine, intimation or otherwise, or who have proceeded with diligence by adjudication within *Sixty* Days preceding the date and registering of said Petition, the process of Ranking and Sale shall be held to operate as a completed adjudication for behoof of all the Bankrupt's just and lawful Creditors who shall be included in the Decree of Ranking and Division on the *Sixtieth* Day preceding the date and registering of the said Petition, so as thereby to set aside and annul those Securities or Adjudications without requiring for that purpose any Action of Reduction or Declarator or other legal proceeding whatever; and which completed Adjudication, as on the *Sixtieth* Day aforesaid, shall be ranked pari passu with any Adjudication led and deduced within a year and day preceding the said *Sixtieth* Day aforesaid; and which transference for behoof of the whole of the Bankrupt's Creditors shall

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not be avoided or challengeable on the ground of any prior Inhibition, without prejudice to the effect to which such Inhibition may be entitled in the Ranking against Debts contracted by the Bankrupt posterior to the Inhibition; provided, that the said transference shall have no effect in any question of succession between the Heir and Executor of any Creditor claiming in the Ranking and Sale; and none of the Creditors claiming to be ranked shall lead separate Adjudications against the Bankrupt's Estate in order to entitle them to be ranked and receive payment, and no such Adjudications shall be necessary for the security of the Purchaser, the Decree of Sale being hereby declared in effect an Adjudication of the Bankrupt's Estate for all the Debts in the process of Ranking and Sale held to be completed on the *Sixtieth* Day as aforesaid, and such Decree shall be completed by being recorded in the General Register of Sasines.

Where Answers are lodged.

6. That if Answers to the Petition be lodged, the same shall be disposed of as in an ordinary action; and on being repelled, or where no Answers are lodged, the Claimants who have entered appearance shall, in the further preparation of the cause, state their respective claims in the form of declarations, with the conclusions from the facts so stated, in the shape of separate Notes of Pleas, producing therewith their grounds of Debt and other Writings for instructing their claims.

Claims to be stated in form of Declarations, and grounds of Debt to be produced.

First Interlocutor.

7. That the Lord Ordinary, if no good cause shall be shown to the contrary, shall sustain the Declaration, and find the Bankruptcy admitted or proven, and grant commission to the Sheriff, or his Substitute of the bounds, to take a proof of the rental, and the worth and value of the lands and others, and at how many years' purchase the same may be put up and sold, with power to fix the upset price, and settle the terms of the articles of Roup, and to report to the Lord Ordinary, and grant diligence against Witnesses and Havers, and against Havers of Title-deeds, Writs and Evidents of the lands and others mentioned in the Declaration, for recovery of such Title-deeds, Writs and Evidents, and assign a day at the distance of not less than *Five* or *Six* Weeks to the whole Creditors and others to produce all their claims, rights and diligence belonging to them respectively, against the Bankrupt or his Estate, with certification as in a Reduction, and appoint the Creditors, who shall appear and lodge claims and oaths of verity, to meet by themselves or their Agents within the office of the Clerk to the process on a certain day and hour, being not less than *Six* Days after the day assigned for

Proof of Rental and Upset Price.

Diligence against Havers.

Second Notice to the Creditors to produce their Claims, with Certification.

Créditors to meet and choose Judicial Factor, Common Agent and Committee.

for lodging claims as aforesaid, and then and there elect a fit Person to be appointed by the Lord Ordinary Judicial Factor on the said lands and others, if necessary, during the dependence of the process, and also a fit Person to be appointed by the Lord Ordinary, Common Agent or Solicitor, to conduct and carry on the process of Ranking and Sale and Division of the price or Proceeds among the Creditors, to the final end and conclusion thereof at the common expense; and to appoint a Committee of the Creditors or their Agents to concur, advise and act with the Common Agent, and appoint the Clerk to report the Minutes of such Meeting at the first calling of the Cause thereafter, and ordain Notice in terms of such Interlocutor, intituled, " Second Notice," in the Process, to be intimated once in the Minute Book, the Edinburgh Gazette, and the said Newspaper, that it may come to the knowledge of all Parties interested; and the Agent of the Bankrupt or Creditors, who raises the Process, shall take care that such Interlocutor is duly intimated and published.

Procedure at Meeting of the Creditors.

8. That at the meeting of the Creditors, they may vote by a majority in value, including interest legally due up to the date and registering of the Petition in the Action, exclusive of penalties, for the election of a Judicial Factor and Common Agent, and three of the Creditors or their Agents as the foresaid Committee; and in computing of such Debts as consist of Annuities or Life-rents, they shall be estimated at *Ten* Years' Purchase of the Annuity: Provided always, That no Creditor shall vote by himself, or his Agent, or Mandatory, unless his grounds of debt, with an oath of verity on the same by the Creditor himself, sworn before the Judge Ordinary, or a Justice of the Peace if in Scotland, or before a Commissioner of Bankruptcy, or a Justice of the Peace, if in England, or a Magistrate in other Countries, or an oath of credulity by the Agent or Attorney if his constituent happen to be out of Britain, shall have been lodged in the hands of the Clerk of the Process at or prior to the said Meeting.

Qualification to vote.

Persons disqualified from being chosen Judicial Factor, Common Agent, or Member of Committee.

9. That no Person shall be capable of being elected Judicial Factor, or Common Agent, who is himself one of the Creditors, or who, with respect to the Common Debtor, is a confident or conjunct person; nor shall any of the Committee be elected who, with respect to the Bankrupt, is a confident and conjunct person; and the Creditors as aforesaid shall proceed to elect such Judicial Factor, Common Agent and Committee accordingly; and the Creditors shall fix the amount of Caution to be found

Caution for Judicial Factor.

found by the Judicial Factor, and no Cautioner offered by him will be received by the Clerk of the Process, unless approved of by the Creditors at the said Meeting.

Second Interlocutor.

10. That on the Minutes of the said Meeting being reported to the Lord Ordinary, and on Caution being found for the Judicial Factor, and the Bond of Caution executed and lodged in the Clerk's hands, the Lord Ordinary shall appoint the Judicial Factor with the usual powers, and also, if no opposition be made, shall confirm the appointment of the Common Agent elected by the Creditors to act as hereinafter mentioned; and the said Common Agent shall thereafter declare his acceptance of the office, and give his oath for the faithful administration of his office accordingly; and the person so confirmed as Common Agent shall not after his appointment act, either by himself or in name of a clerk or confidential person, as the private Agent of any particular Creditor or class of Creditors, or of the common Debtor, in any matter relative to the ranking, or as to the division of the price, while the same are in dependence before the Court, otherwise he shall become thereby disqualified from acting as Common Agent; but in the event of a competition for the office of Common Agent, a record shall be forthwith made and closed, and the matter determined by the Court, and in the meantime the Lord Ordinary shall nominate an Agent or Solicitor to act until the competition be determined, and the person who shall be ultimately declared Common Agent may recover from his competitor full expenses, and no part of which shall be chargeable against the common fund.

Lord Ordinary to appoint Judicial Factor, elected by the Creditors, and nominate Common Agent.

Acceptance of Common Agent.

Common Agent not to act as private Agent of any of the Creditors, or of the common Debtor in the Process.

Competition for Office of Common Agent.

Common Agent ad interim.

Third Notice to the Creditors to produce their Claims and Interests, with certification as in a Reduction.

11. That within *Six* Days after the meeting of Creditors aforesaid, the said Common Agent, or, in case of a competition for the office of Common Agent, the Common Agent ad interim, shall insert once in the Minute Book, the Edinburgh Gazette and in the said Newspaper, a Notice to the whole Creditors of the Bankrupt, requiring them between, and a certain day, not earlier than five or six weeks, to lodge with him their Claims, Rights and Diligences, and whole Vouchers thereof, belonging to them respectively, with Oaths of Verity therein (which may be taken before himself in virtue of this Act, or before the Judge Ordinary, or any of His Majesty's Justices of the Peace within whose bounds the Creditors reside), against the Bankrupt or his Estate, with certification that what Writs shall not be so lodged with him, shall be held as reduced, decerned and delared to be null and void, and of no strength or effect, as in a Reduction, in so far as they may affect the Bankrupt's Estate and the interest of

the Creditors therein, who shall have produced or shall lodge with him their Rights and Diligences affecting the same, and such Notice shall be signed by the Common Agent, or Interim Common Agent, and be intituled " Third Notice," and have subjoined the words, " Not to be repeated."

Duties of Common Agent.

12. That the Common Agent, or the person appointed Common Agent ad interim, shall see that the third Notice to the Creditors above mentioned is duly published; and the Common Agent, after his election is confirmed, shall borrow the Process, and the Claims, and Affidavits lodged in it previous to his election, and keep a Minute Book of his proceedings, and in which he shall insert an abstract of the dates and different steps of procedure, either judicially or otherwise, and a Letter Book for his official correspondence, both to be open to the inspection of all concerned; and shall at all times be amenable to the Court, on application by a written note, at the instance of any party interested and subject to redress, being given against him, as the case may require, or to be removed by the Court on cause shown, in which event the Court shall appoint a meeting of the Creditors to choose another Common Agent; and the Common Agent shall take the most effectual means for ascertaining the nature and extent of the Subjects belonging to the Common Debtor, together with the Incumbrances thereon, in order to which he shall, if necessary, search the Public Registers, and apply to the Lord Ordinary for first and second Diligence against Havers; and the Common Agent shall carefully examine the whole proceedings in the Process, to see that the proof of the Rental, Burdens and of the upset Price are complete, and if not, shall supply any defects that may appear, and have the value of the lands and subjects ascertained; and the Lord Ordinary shall hear all Parties having interest, in opposition to the Report of the Sheriff, of the proof of the rental and value of the Lands, and shall either confirm or alter the same as to him shall seem just; and the Common Debtor, where the Process is raised by a Creditor, may, at this stage of the Process, oppose further progress in the Sale, provided he shall show that the Creditors claiming have been settled with, or that the debts do not show his insolvency; and immediately after the last term for producing the interests of the Creditors is elapsed, the Common Agent shall examine the Claims and Vouchers produced, and where he is satisfied that the Claim is well grounded, he shall mark it admitted by him, but if not so admitted, he shall answer the Claim, and therein state his objections thereto, and give notice to the Agent of the Claimant when his Answers are lodged; but the Common Agent shall not

To keep Minute Book of his proceedings, and Letter-Book.

To ascertain extent of Subjects and Incumbrances.

To examine Proceedings and Proeess;

and Claims and Vouchers.

Claims to be admitted or objected to.

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not make up a state of Interests, and of the objections thereto, and questions arising thereon; and the Common Agent shall not discuss at the expense of the Estate any questions in the Ranking which relate only to the interest of particular Creditors or classes of Creditors, in competition with one another, and which do not affect the common fund, but only the individual Parties interested, and their Agents shall attend to their own interests in preparing and closing a Record on each disputed Claim, and which shall be done, and the Claim determined in the same manner as in an ordinary Action, both on the dilatory objections and on the merits; provided, that the Common Agent may take all necessary measures for obliging those who have the conducting of such questions to proceed in them without delay.

No state of Interests to be made up.

Expense of discussing Claims in competition.

Record of disputed Claims.

13. That as soon a Common Agent is appointed, *Three-fourths* of the Creditors in value, or their Agents, at a Meeting called by the Common Agent, or by any of the Committee of the Creditors, or by any *Two* of the Creditors themselves, or their Agents, may resolve to put a stop to further Litigation in so far as relates to the claims, rights and preferences and ranking of the Creditors, by entering into a Minute of Reference either to the Common Agent, or to such other Person as they shall nominate, and to which Minute the Lord Ordinary shall interpose his authority; and against which Resolution there shall be no Appeal to the Court, except as to the extent of the value of the Debts in respect of which the votes were given; and, on a Report by the Referee, decree of Preference shall be pronounced in terms thereof; or in case there shall appear a clear Reversion for the postponed Creditors, or the common Debtor, after discussing preferable Claims, the Parties interested in such Reversion, if they are agreed among themselves as to the distribution or disposal of it, may put a stop to farther Litigation by presenting a short Note, signed by an Agent, to the Lord Ordinary, and obtaining an order to that effect, the said Note being intimated to the Common Agent, and any other Party engaged in such unnecessary litigation.

Reference of Questions of Ranking.

Taking Process out of Court where clear Reversion.

14. That immediately after expiry of the last period for the lodging of Claims and Vouchers, the Common Agent shall enrol the Cause, and obtain from the Lord Ordinary a decree of Certification contra non producta in terms of the conclusion to that effect; but the said decree of Certification shall not be extracted, and the Clerk to the Process shall not receive any Claim or Interest either before or after said Decree, provided that if any Claim and Oath of verity shall be lodged with the

Third Interlocutor, Decree of certification, contra non producta.

Common Agent by any Party within *Twenty-one* Days after the date of the said Decree of Certification, the same shall be received by him, and application to be reponed shall be unnecessary.

Composition allowed in Ranking and Sale.

15. That after a proof of the Rental and Value of the Lands has been reported, and the third Interlocutor above mentioned has become final, or at any subsequent time the Bankrupt or his friends, at any meeting called by the Creditors, or by the Common Agent, or any of the Commissioners, and published in the Edinburgh Gazette *Fourteen* Days before the meeting is held, may make an offer of Composition to the Creditors of a certain sum per Pound on the whole Debts due to them, and to pay the whole expenses of Process, and if such offer shall be made to the satisfaction of a majority in number, whose debts have been admitted or sustained as before mentioned, (but no Creditor, whose debt is under *Twenty* Pounds, shall be counted in the number of such Creditors), they may entertain the said offer, and appoint the Common Agent, or any of the Commissioners, to call another Meeting, to be held at the distance of not less than *Three* Weeks thereafter, for the purpose of deciding on such offer; and of which Meeting the Common Agent shall give notice, by putting into the Post Office of the place where he resides, printed Notices addressed to each of the Creditors, or their Agents, claiming in the process of Ranking and Sale, a *Fortnight* at least before the proposed Meeting, mentioning the time and place and purpose of the Meeting, and having annexed thereto a Copy of the offer, with a distinct specification of the security proposed; and the said Notices shall also have annexed a printed Abstract of the Valuation of the Rental and Estate, unless the Creditors present at the said *First* Meeting shall otherwise especially direct or dispense with, such Notices and Abstract being sent to such of them as may be then present by themselves or their Agents; but the Common Agent shall proceed with his duty as if no such proposal of Composition had been made; and if at the Meeting so appointed, the offer of Composition, with the names and designations of the Cautioners, and the particulars of any other Security offered for payment of the Composition and whole Expenses of Process, shall be distinctly set forth for the consideration of the Creditors, a majority of *Nine-tenths* in value, and a majority in Number of the Creditors, there assembled, whose Debts have been admitted or maintained as aforesaid, (but no Creditors whose debt is under *Twenty* Pounds, shall be counted

Second Meeting to dispose of Proposal.

counted in the number of the Creditors), may accept the offer; and if the offer shall be so accepted, and the Security proposed agreed to as satisfactory, then the Minutes of the Meeting shall be transmitted to the Clerk to the Process, and along with them a Bond for security of the Composition in the terms agreed to by the Creditors, which Bond shall not be liable in any Stamp Duty; and if, upon considering said Minutes, and hearing any objections that may be stated by opposing Creditors, the Court shall find the proposition has been assented to by a majority of *Nine-tenths* in value, and a majority in number as aforesaid of the Creditors who attended by themselves, or their Agents, at the Meeting last mentioned, and if the Court shall be satisfied that the proposal accepted by the Meeting has also been assented to by a majority of *Nine-tenths* in value, and a majority in number as aforesaid, of all the Creditors whose Debts have been admitted or sustained as aforesaid, including contingent Creditors, the Court shall pronounce an act or order approving of and confirming the Agreement, and discharging the Debtor of all Debts and Obligations contracted by him, for which claims have been lodged, but which order shall not affect the claims of the Creditors of the Bankrupt for the Composition agreed to be paid thereon; but previously to such act being pronounced, the account of the Common Agent shall be taxed by the Auditor of Court, subject to the review of the Court if objected to by the Bankrupt, or any of the Creditors; and the whole expense attending the process of Ranking and Sale, including the account of the Common Agent, and the remuneration of the Judicial Factor, shall at the same time be paid or provided for by the Bankrupt or his friends to the satisfaction of the Common Agent and Commissioners; and after the said Composition is approved of, and discharge granted, all proceedings in the process of Ranking and Sale shall cease; and on receiving full payment of the Composition, the Creditors shall assign to the Bankrupt, or his Friends or Cautioners who shall make payment, their respective claims and vouchers thereof; provided that the Bankrupt shall, in every such case of Composition, and before the Composition is approved of by the Court, make oath that there has been no private agreement or collusive transaction, direct or indirect, between him and any of the Creditors, and that he has not either directly or indirectly used undue influence with any of them to obtain their concurrence; and provided further, that after an offer of Composition has been made and rejected, or has become ineffectual, no other offer of Composition shall be attended to by the Common Agent, unless such offer shall state the amount of the Composition, and the terms of Payment, and be accompanied by a

Judicial Sanction of Composition.

Oath required.

All private and collusive Agreements as to Compositions illegal

subscribed Engagement by the Cautioner, with a proof of the same being assented to by the subscription of a majority of *Nine-tenths* in value of all the Creditors whose Debts have been admitted or sustained, and a majority in number of such Creditors as aforesaid; and every proposal or agreement for a Composition with individual Creditors, in which the whole of the Creditors are not included, and every device to stop the proceedings in the process of Ranking and Sale by proposals of Compromise or Compositions other than are hereby expressly allowed, shall be deemed illegal and void; and all persons concerned in them shall be liable to be complained against to the Court, at the instance of any Party having interest, and made liable for any expense or damage or delay occasioned by the proposal; and all such offenders shall be further punished by the Court in such way as may be provided in such cases in Sequestrations of Bankrupt Estates in any Act of Parliament to be passed for regulating Sequestrations of Bankrupt Estates, and rendering the payment of Creditors more equal and expeditious in Scotland.

Offenders how to be punished.

Interlocutor of Ranking.

16. That in case no reference of the questions of Ranking has been entered into, or no proposal of Composition offered, and the different Claims have been finally sustained or rejected, the Common Agent shall proceed to prepare an Interlocutor of Ranking, which shall be revised by the Lord Ordinary, and transcribed by the Clerk to the Process, and signed by the Lord Ordinary, and previously to being signed, the Draft of the Interlocutor shall remain in the Clerk's hands for *Six* Days patent to all concerned, that they may satisfy themselves of the same being correctly framed; and if any Person having interest thereafter suffer the decree of Ranking to be extracted, without producing and competing upon his Interest, the Extract Decree and Sale shall, notwithstanding, stand good, and the Purchaser be bound to pay conform thereto, and the Person failing shall have no other remedy but to pursue the Receivers of the price, and their Heirs for repetition as accords.

After decree of Ranking extracted, no remedy to any Creditor not appearing, and competing, but to sue the Receivers of the Price or their Heirs for repetition.

Proceedings in Process of Sale.

17. That while the proceedings are in progress to ascertain the Claims to be ranked on the Estate, the Common Agent, so soon as he has completed the proof of the Rental and Value of the Estate, including the holdings, public burdens and deductions, shall enrol the Cause before the Lord Ordinary, and obtain circumduction and great avizandum; and the assistant Clerk in the Inner-House shall not prepare a state of the Process as heretofore, but the Common Agent shall prepare a Memorial and Abstract of the proof, and which shall be revised by the Lord Ordinary on communicating with the

Prepared state to be discontinued.

the Common Agent at Chambers, after which it shall be printed and boxed, and reported to the Court at least *Ten* Days before the end of the Session, unless upon a motion and cause shown, the Court shall dispense with that period, and allow the matter to be reported within a shorter period; provided, that where the Memorial and Abstract cannot be reported to the Court during the Session, the Lord Ordinary officiating during Vacation may advise the Memorial and Abstract, and pronounce an Interlocutor thereon in the same terms as the Court would have done during Session, and which shall be final, and not subject to the review of the Inner-House.

Memorial and Abstract.

To be boxed and advised by the Court in time of Session, or by Lord Ordinary officiating during Vacation.

18. That the Court during Session, or the Lord Ordinary officiating during Vacation, on advising the Memorial and Abstract, if no good reason be shown to the contrary, shall find that the Process has been regularly brought forward; that it is for the interest of the Creditors and Common Debtor that the Lands should be exposed to sale judicially, in whole, at the proven value thereof, at the upset price, or in certain lots at upset prices not less than the total proven rental, and grant warrant of Roup and Sale, and grant warrant for publication, notifying the time and place of Sale, which may take place either before the Lord Ordinary to the process during Session, or the Lord Ordinary officiating during the Vacation, in the Parliament House at Edinburgh, or the Sheriff of the County in which the lands lie, on cause shown to the Court, or the Lord Ordinary officiating during Vacation, that it would be beneficial to the Creditors and the common Debtor, that the Sale should take place before the Sheriff of the said County, especially in Sales of Heritable Property of small value; and the Sale shall be advertised *Once* in the Edinburgh Gazette, and *Three* times, *Once* in each week, in the Newspaper published in the town and neighbourhood where the lands and subjects are situated, and also in such other Newspaper as the Lord Ordinary shall appoint, or the Common Agent shall think proper, subjoining to the last advertisement in such Newspaper the words "Not to be repeated;" and copies of the Gazette and Newspaper containing the advertisement aforesaid, shall be produced in the process of Ranking and Sale; and in the said advertisement it shall be mentioned where copies of the Memorial and Abstract, and the Title Deeds and searches of Incumbrances may be seen; and the warrant of publication shall be executed edictally *Thirty* Days previous to the Sale; and the Common Agent shall prepare and sign the Warrant of Publication,

Interlocutor approving of Proceedings and granting Warrant of Roup and Sale, and Warrant of Publication.

Sale to be advertised.

Warrant of Publication.

Publication, and the articles of Roup and the Inventory of the Title Deeds.

Proceedings at the Sale.

19. That the Sale shall take place before the Lord Ordinary to the Process in time of Session, or the Lord Ordinary officiating during vacation, in the Parliament House at Edinburgh, or the said Sheriff at his ordinary Court Place, as may have been previously appointed by the Court, or the Lord Ordinary officiating during vacation, in terms of the articles of Roup, on the day appointed for the Sale, commencing at *One* o'clock, and continuing for such length of time as may be necessary, until the Sale be completed or adjourned; and a Macer of the Court of Session, or Officer of the Sheriff Court, as the case may be, shall act as Auctioneer; and on the purchaser consigning the price, or granting a Bond with caution for the same in terms of the articles of Roup, the Decree of Sale shall be extracted.

Decree of Sale to be a general Decree of Adjudication for all the Creditors.

20. That the Decree of Sale in favour of the Purchaser shall also have the effect of a general Decree of Adjudication in favour of every Creditor who shall afterwards be included in the Decree of Division, and shall operate in favour of the Creditors of the Ancestor, whose debts shall be admitted or sustained in the process of Ranking, where a Competition shall arise with the Creditors of the Heir, in the same way, and to the same effect, as if such Creditors had adjudged separately; and the effect of such general Decree shall be the same in all competitions or questions of Ranking and preference, as if it had been pronounced and extracted of the date of the first calling of the Process before the Lord Ordinary; and no separate adjudication either for debt or implement shall proceed during the dependence of a judicial Sale.

Consignation of the Price.

21. That in every case of judicial Sale of Lands or heritable Subjects, the Purchaser at any time subsequent to the term of payment of the price, may lodge the price of the Lands and others, with the interest due upon it, in any of the chartered Banks of Scotland, or their Branches, at such interest as can be procured for it on a receipt in name of the Principal Clerk to the Process, for behoof of the Creditors in the Estate under Sale, not again to be drawn out without an order of Court; by doing which, and lodging the receipt for the same in the hands of the said Principal Clerk, the Purchaser shall be discharged of the price; and further, the Common Agent shall compel the Purchaser to lodge the price

price and interest at the term of payment in one or other of the said Banks.

Advertisements and Auctions in terms of this Act not to be subject to Duty.

22. That the Advertisements in Processes of Ranking and Sale required by this Act to be inserted in the Edinburgh Gazette and Newspapers, shall not be subject to any Duty, nor shall any Duty or Penalties be exigible in respect of Auctions required under this Act.

Audit of the Accounts of the Judicial Factor, and exoneration; and of the Account of the Common Agent.

23. That where a Judicial Factor has been appointed, a short Note signed by an Agent shall be presented to the Court for his Discharge, and notice of such Application having been intimated by post to the Agents of the Creditors, by an Agent of Court, and on the Walls and in the Minute Book, for *Eight* Days, before presenting the Application to the Court, and the Lord Ordinary in the Ranking shall examine into the Facts, and state of Accounts, and Report; and the Lord Ordinary shall remit the Factor's Accounts to one of the Auditors of Court, or to a Depute Clerk of Session, and the Common Agent's Account to the Auditor, and make great avizandum to the Court with the Reports of the Auditor, and of the Depute Clerk if a remit be made to him; and as soon as lodged, the Process shall be enrolled, and the Reports brought before the Court, but without printing such Reports; and, if no objections are made, the Court shall approve of the Reports, and grant Decree of Exoneration in favour of the Judicial Factor.

Expenses of Common Agent.

24. That the Expenses of the Common Agent in carrying on the Process of Ranking and Sale, and extracting the Decrees therein, shall, on application by a Note to the Court, signed by the Common Agent, be advanced out of the Rents of the Bankrupt's Estate; and the same shall be admitted to the Credit of the Factor in his Accounts, in so far as the same has been advanced by him, and the Balance shall be paid out of the first of the Purchase-money; and the residue shall be divided amongst the Creditors.

Decree of Division.

25. That after the Proceedings in the Sale have been brought to a conclusion, as aforesaid, and the Decree of Ranking has become final, and been extracted, and the Accounts of the Judicial Factor and Common Agent audited as aforesaid, and the price shall have been consigned, or caution therefor found in terms of the Articles of Roup, the Common Agent shall enrol the Cause, and the Lord Ordinary shall remit to the Auditor, or Depute Clerk, to prepare a Scheme of Division of the Funds realized; and on making up such

Principal and Interest to be accumulated as at date of the Remit.

Scheme of Division, the Claims ranked, Principal and Interest, shall be accumulated into a capital sum as at the date of the said Remit, and the said scheme being lodged, and intimation thereof given to the Agents of the Parties, and seen for *Eight* Days, the same, if there be no good objections stated to the contrary, shall be approved by the Lord Ordinary, and a decree of Division, and for payment accordingly, pronounced by the Lord Ordinary against the Purchaser and his cautioner, where caution has been found, and against the Bank where the price has been consigned.

Forms of Extracts in Process of Ranking and Sale.

26. That in Actions of Ranking and Sale, the extract of the act and commission for proving the value of the subjects to be sold, and the upset price, shall be in the form contained in Schedule (C.), Number VI. (1), hereto annexed; and the extract Warrant of Intimation and Publication of the Sale shall be in the form in the said Schedule Number VI. (2); and the extract of the decree of Sale shall be in the form in the said Schedule, Number VI. (3); and the extract of the decree of Ranking shall be in the form in the said Schedule, Number VI. (4); and the extract of the decree of division shall be in the form in the said Schedule, Number VI. (5).

Interim Warrants.

27. That no Creditor, however preferable, shall draw in time coming by interim Warrant any sum out of the common Fund, without sufficient cause shown to the Court, and in no case shall draw full payment, and no interim Warrant shall be granted before the decree of certification shall become final and expiry of *Twenty-one* Days thereafter, except for Interest or Annuities, and all applications for Interim Warrants shall be lodged and continue fixed in the office of the Clerk to the process of Ranking and Sale, and shall form part of such process.

If pursuer die, or do not insist, any Creditor may carry on Process.

28. That if the Pursuer of a Ranking and Sale shall die during the dependence, or forbear to insist, any Creditor or the Common Agent, for the common behoof, may carry it on to its final issue.

If common Debtor or Creditors die, their Representatives may be cited by a Diligence.

29. That if the common Debtor, or any of the Creditors compearing and producing, shall happen to die, the Process thereupon shall not stop, and the apparent Heir, or the representative of the deceased Creditor, may be cited to compear upon a Diligence, without waiting the year of deliberation, or transferring the Process passivè, and if no person appear in the place of the common Debtor or Creditor deceased, the process shall, notwithstanding, be proceeded

proceeded with to its final issue in the same manner as when parties alive are summoned, and do not appear.

To prevent Delays.

30. That in order to prevent, as far as possible, any undue delays in carrying on judicial Sales and Rankings, and in case the proceedings in the Process shall not be finally closed within *Twelve* Months after raising the Action, the Common Agent shall forthwith make a Report to the Lord Ordinary, in which he shall set forth the situation of the process at the time, and causes of delay; and which Report shall remain in the hands of the common Agent for *Ten* Days, patent to all concerned, before being lodged, of which due notice by post shall be given to the Parties or Agents concerned, and thereafter the Report shall be lodged in process and transmitted to the Lord Ordinary; and if the common Agent shall neglect to make out such Report within *One* Month from the end of said *Twelve* Months, any of the Committee or any of the Creditors, on the expiry of said Month, may complain to the Lord Ordinary, who shall give such deliverance, or award such expenses, as to him shall seem proper in the circumstances of the case; and a similar Report shall be prepared and transmitted to the Lord Ordinary within *Twenty-one* Days after the elapse of every *Six* Months thereafter, until the proceedings are closed.

Same Regulations to be followed in Sales of Rankings by apparent Heirs.

31. That the foregoing Regulations shall likewise be followed in all respects in Actions of judicial Sale and Ranking at the instance of apparent Heirs.

XIX.

Preceding Causes summary.

And be it Enacted, That all the preceding Complaints or Applications which were formerly in the form of Petitions and Complaints, and other Causes before mentioned, except Reductions, shall be summary both before the Lord Ordinary and in the Inner-House.

XX.

Proving of the Tenor.

And be it Enacted, That in processes of proving the Tenor, the form of proceeding before the Inner House as formerly shall cease, but shall be proceeded with in the same form before the Lord Ordinary in the first instance; and if it shall appear necessary, the Lord Ordinary may order a proof to be taken before himself, if the Witnesses do not reside above *Fifty* Miles from Edinburgh; or on Commission, if they reside above that distance from Edinburgh, or direct a Special Issue to be tried before a Jury, and the Issues and Verdict to be reported to the Inner House for its Judgment: Provided, that the proof shall not be printed, if it would exceed sixteen ordinary printed pages; and the import of it may be stated

by the Parties, or their Counsel, to the Court; and the principal Clerk, or his first Assistant, shall transmit the written proof in Process to each of the Judges, for perusal.

XXI.

Actions of Aliment.

And be it Enacted, That in Actions of Aliment, the Respondent shall give in Answers, containing special Defences, as at present, and thereafter the Parties, or their Counsel, shall be heard before the Lord Ordinary on any preliminary defence, such as the liability of the Defender, or objection to the jurisdiction of the Court, and the Lord Ordinary shall either pronounce Judgment thereon, or issue Notes of his opinion, and report the Case to the Inner-House; and if the preliminary Defences shall be repelled, the Pursuer, or his Counsel, shall then be heard before the Court, as to the amount of the Aliment, and if the amount of the fortune of the Respondent and the destitute situation of the Pursuer be admitted, the Court shall modify the Aliment; but if the Parties are not agreed on the above facts, the Court shall order a revised Declaration and revised Answers, and thereafter order such investigation into the circumstances of the Parties by remit to an Accountant, or otherwise, as the Court shall see fit; and if the report of the Accountant or further proof be reported to the Court for judgment on the amount of Aliment to be awarded, the Court shall hear the Parties or Counsel thereon, if the Parties desire it, without prejudice to an Award of interim Aliment at any stage of the Proceedings, where such shall appear to be proper.

Preliminary Defence.

Merits.

Interim Aliment.

XXII.

Extraordinary Actions, viz. Count and Reckoning, &c.

And be it Enacted, That in Processes of Count and Reckoning, Sale of Pupils' Heritage, Division of Commonty, Division of Runrig Lands, Division amongst Heirs Portioners, Choosing of Curators, Poinding the Ground, and other extraordinary Actions, other than those hereinbefore provided for, the Actions in each of such cases shall be raised in the form of a short Writ, or Summons, and Declaration, as in an ordinary Action; and the other Special Pleadings and closing the Record shall proceed according to the forms applicable to ordinary Actions, in so far as in each particular instance it shall appear fit and expedient; but it shall not be in the power of the Lord Ordinary or the Court specially to authorize such Actions to proceed according to the old forms in use in such Actions, except in regard to the power and mode of review of any Interlocutors pronounced.

XXIII.

Real Pursuer in Multiple Poindings to give in a Declaration along with the Writ. Nominal Pursuer at first calling of the

And be it Enacted, That in Processes of Multiple Poinding, where the Person possessed of the Funds is the real Pursuer, he shall give in a Declaration of the Funds in his hands along with the Writ; and where he is only the nominal Pursuer, he shall at the first calling of the Cause either give in a precise and articulate Declaration of the

the amount of the funds in his hands, stating likewise any claim or lien which he may think he has on the fund, or produce objections as his Answers against the Writ and Declaration served on him, otherwise he shall be held as confessed; or a Declaration may be ordered from any of the Claimants; and in the further preparation of the Cause, the Claimants in a Multiple Poinding shall state their respective Claims in the form of Declarations, with the conclusions from the facts so stated in the shape of notes of Pleas, producing therewith their grounds of debt and other writings for instructing their claims; and the Lord Ordinary, if he see cause, may appoint the Creditors to meet and chuse a Common Agent, as in a Ranking and Sale, who shall admit such Claims where unobjectionable, or state his objections to each or any of the Claims in the form of Answers to the Declaration, with a note of Pleas; and where it appears to the Common Agent to be necessary to insert a Notice in the Newspapers, requiring all Parties having interest to appear and lodge Claims, he shall in such Notice require the Claims to be lodged with him, and where so lodged, he shall number and add them to the inventory of Process; and where the Common Agent, after his appointment, borrows the Process from the Clerk, he may keep it until he has examined all the Claims and admitted them, or made objections to them; but he may lend the whole Process, or any part of it, to any of the Claimants' Agents on a receipt which may be forced back by caption; and such caption, as in other cases, shall be granted by a principal or Depute Clerk of Session on a complaint to the Court at the instance of the Common Agent, and quoad ultra the duty and nature of his office shall be similar to that of a common agent in a Process of Ranking and Division; and if no Common Agent be appointed, the Parties shall be required to revise their Declarations, each being allowed to state after the close of his Declaration, a Note of Pleas; and they shall meet together and lodge joint revised Answers for the opposing Claimants to such revised Declarations, and subjoin to such revised Answers a Note of Pleas in Law; and thereafter in every instance the procedure shall correspond as nearly as may be to what is provided in the case of an ordinary Action.

Cause to give in Declaration or Objections.

Claims in Multiple Poinding.

Common Agent may be chosen

Mode of proceeding in Multiple Poinding.

XXIV. Regulations as to Procedure in Reclaiming Notes and Suspensions.

And be it Enacted, That the following Regulations shall be observed regarding the procedure in Reclaiming Notes, now competent in place of Advocations against the Judgments of Sheriff and other Local Courts, and in Suspensions, or Suspensions and Interdict, or Suspensions and Liberation, in the Outer-House, and in finding Caution, or making consignation in such Suspensions, and Suspensions and Interdict, or Suspensions and Liberation.

1. That in Suspensions of Charges, or threatened Charges, on Protests on Bills of Exchange, or Promissory Notes, or on Contracts, Decrees-Arbitral, or other Instruments, registered for execution,

Caution or Juratory Caution in Suspensions,

or Suspension and Interdict or Suspension and Liberation, to be found or made in Sheriff Court, and Consignation in Court of Session.

execution, and in Suspensions of Extracted Decrees of Removing, or threatened Charges of Ejection, or Suspensions against Decrees of the Court of Session in foro, or Suspensions and Interdict, or Suspensions and Liberation, originating in the Court of Session, where offered on Caution, or Juratory Caution, such Caution, or Juratory Caution, shall be found and made in the Sheriff Court, in the jurisdiction of which the Suspender and his Cautioner reside, or in the office of the Depute Clerk of Session to the process where the Suspender and his Cautioner do not reside in the same Sheriffdom; and Consignation in all such Suspensions shall be made with the said Depute Clerk of Session; and the Suspender in no case shall find Caution, or Juratory Caution, or consign to a greater extent than the amount of the debt charged for, and *Ten* Pounds for expenses, where the debt charged for or subject in value in dispute is under *Twenty-five* Pounds, and where the Debt is above that sum, the Suspender shall not be bound to find Caution, or Juratory Caution, or consign to an amount exceeding *Fifty* Pounds, towards both the debt charged for (whatever its amount may be), and the expenses in the Court of Session, (whatever amount they may be); and the space of *Fourteen* Days in the ordinary case, and *Thirty* Days where the Suspender resides in the Hebrides, Orkney or Shetland, shall be allowed from the date of the Interlocutor passing the Suspension, for finding such Caution, or Juratory Caution, or making such Consignation; and the Sheriff Clerks, or Depute Clerks of Session in cases of Caution in Suspensions, shall be the sole Judges of the sufficiency of the Caution, and responsible for the due and faithful execution of their duty, whether in receiving or rejecting Cautioners, according to the Rules of Common Law and Justice applicable to the circumstances of the cases that may occur; and such Sheriff Clerks shall furnish a Certificate of Caution or Juratory Caution having been found, which shall be lodged by the Suspender in process; and on the elapse of the foresaid terms respectively, if no such Certificate of Caution be lodged in process, or if Caution be not found to the satisfaction of the Depute Clerk of Session, where it is provided that such Caution shall be found in his office, or Consignation made in his hands, the Suspension shall be held as refused, with Costs, including the Expenses incurred in regard to Caution; and on such Costs being taxed by any of the Auditors of Court, or adjusted by the Parties, or Agents, the Lord Ordinary before whom the Writ of Suspension depends, may decern for the same against the Suspender: Provided always, That on payment at any time before Extract of such taxed Costs to the opposite Party

Extent of Caution in Suspensions.

Time allowed for finding Caution in Suspensions.

Responsibility of Sheriff Clerks or Depute Clerks of Session as to Caution.

Suspension to be refused on failure to find Caution or make Consignation.

Party, or his Agent, it shall be competent to lodge the Sheriff or Depute Clerk's Certificate of Caution having been found, or Consignation made, and to proceed with the Cause.

Provision as to new Caution in suspensions of liquid Obligations.

2. That in every Process of Suspension of a liquid obligation, in which caution has been found, or may hereafter be found, the Party entitled to the benefit thereof, in case the Cautioner shall have been sequestrated, or become Notour Bankrupt, or have executed a trust-disposition for behoof of his Creditors, or have called a meeting of his Creditors to consider a state of his affairs, or shall have died unrepresented, may present a Note, signed by himself or his Agent, to the Lord Ordinary of the Process, or to the Division in which it may depend for the time, the same being previously intimated in common form, stating the circumstances which have emerged, and praying the Lord Ordinary, or the Division, to order new Caution to be found; and the Lord Ordinary, or the Division, shall pronounce such order thereon as the justice of the case may require.

Caution or Consignation not required in Reclaiming Notes against Judgments, or Suspensions of extracted Decrees of Local Courts.

3. That in the case of Reclaiming Notes now competent in place of Advocations of final Judgments, or of Suspensions of extracted Decrees of the Local Courts, no Caution, nor Juratory Caution, shall be found, nor Consignation made to any extent, notwithstanding any Law or Practice to the contrary, except that in Suspensions of extracted Decrees of the Local Courts, the Writ of Suspension shall not be received by the Clerk of the Process, in the Court of Session, unless the Suspender shall lodge along with such Writ the amount of the expenses of extract, and of all manner of legal execution that may have followed on it before presenting the Writ of Suspension or consign with such Clerk the sum of *Three* Pounds towards such Expenses; and the amount so lodged shall be paid over to the Charger or his Agent, without repetition, in the event of the Suspender being ultimately successful; but the Suspender, after said Consignation, and before the same is paid to the Charger or his Agent, may have the account of said expenses of Extract and of Execution taxed by the Auditor of the Sheriff Court; and which account the Charger or his Agent before the Sheriff Court, shall furnish to the Suspender or his Agent, on being requested to do so, previously to the Writ of Suspension being presented, and failing thereof, the Suspender shall consign, in the hands of the said Clerk the sum of *Three* Pounds in the meantime, until the account be produced.

Form of Juratory Caution in Suspensions.

4. Whereas it is necessary to regulate the manner in which Juratory Caution shall be offered, and the conditions on which

which it may be received; BE it Enacted and Declared, That where a Person wishes to bring or has brought a Writ of Suspension before the Court of Session of a charge, or threatened charge, on a Bill of Exchange, or Promissory Note, Contract, Decreet-Arbitral, or other Instrument registered for execution, or a Suspension of a Decree of the Court of Session, in foro, or Suspension and Interdict, or Suspension and Liberation, originating in the Court of Session, and shall not be able to find Caution or make Consignation, he may offer Juratory Caution, and the Sheriff of any Sheriffdom within which the Complainer resides, may receive the same in manner following, viz. the Complainer shall apply by Petition to the Sheriff, praying that such Caution may be received; which application shall be intimated to the opposite Party, or his agent, on an induciæ of *Four* Days, without a Special Warrant of Service, and that before any such application shall be granted, the Complainer shall be required to depone at a time and place to be previously intimated to the opposite Party, or his agent, in order that they may have an opportunity of cross-interrogating him, if they see fit, whether he have any lands or property, or life-rents, or bonds, bills or contracts, containing sums of money; and in case he acknowledge the same, he shall condescend thereon, and depone that he has no other lands, bills or contracts containing sums of money, belonging to him; and the Complainer shall also lodge with the Sheriff Clerk, First, The Bond of Caution; Secondly, A full Inventory of his Subjects and Effects of every kind; Thirdly, An Enactment subjoined to the Inventory, bearing that he will not dilapidate any of his property, and that he will not dispose of the same, or uplift any of the debts due to him, without consent of the Respondent or his agent, or the authority of the Judge (under the pain of imprisonment, or being otherwise punished, as guilty of fraud) until the Suspension, or Suspension and Interdict, or Suspension and Liberation, be discussed, and until there be an opportunity of doing diligence for any expenses that may ultimately be found due by him to the extent hereinbefore declared; and further, the Complainer shall lodge in the hands of the Sheriff Clerk the vouchers of any debts due to him, and the title-deeds of any heritable subjects belonging to him, so far as the same may be within his possession or power, in order to satisfy the Sheriff or the Sheriff Clerk that the same appear to them, or either of them, a sufficient security to the extent of the sum hereinbefore declared; but if they are not so satisfied, the Complainer also shall grant a special Disposition to the Respondent (if so required) of any heritable subjects of which he may be possessed, and an assignment

Bond, Inventory, and Enactment to be lodged with the Clerk of the Local Court.

assignment of all debts or other rights due to him, for the Respondent's further security; the said Disposition and Assignation to be made out at the expense of the Respondent, and by his Agent; and the same, with the said vouchers and title-deeds, if so deposited, to remain in the hands of the said Sheriff Clerk, to the extent of the sum hereinbefore declared, until the Suspension, or Suspension and Interdict, or Suspension and Liberation be discussed; and upon all this being done to the satisfaction of the Sheriff and the Sheriff Clerk, the latter shall certify the same.

Final Judgment.

50 Geo. 3. c. 112. s. 38.

5. AND whereas doubts have been entertained as to the meaning of the term "Final Judgment" used in the said Act passed in the fiftieth year of the reign of His Majesty King GEORGE the Third with reference to Advocation; BE it Enacted, That a Judgment shall be reckoned a final one to the effect of admitting a Reclaiming Note in place of Advocation, where the whole merits of the Cause have been disposed of, and Expenses found due, or refused, although the Expenses have not been modified or decerned for.

Local Court Process to be produced with the Reclaiming Note or Writ of Suspension.

6. That in all cases of Reclaiming Notes against the Judgments of the Sheriff or other Local Courts, or of Writs of Suspension of Courts or of Court Decrees, the Complainer shall produce the Proceedings in the Local Court, and the Inventory thereof, with the Reclaiming Note or Writ of Suspension, when presented to be registered as hereinbefore directed; but in case the Process cannot be obtained, he shall state the fact in a separate Note, and crave a Warrant for its tranmission; and the Depute Clerk to the Process on such Note, or a Note from either Party being lodged at any time after the Reclaiming Note or Writ is registered, shall grant Warrant accordingly for its transmission to the office of the Clerk marked on the Note or Writ; and the Clerk of the Sheriff or other Local Court, on production of a Reclaiming Note, or a Writ of Suspension, or a copy thereof, certified by the Law-Agent of either Party in the Process of Suspension, or an order of the Depute Clerk of Session, and on satisfaction of his legal Fees, shall recover and deliver the whole steps of process, all conform to Inventory, to the Agent of the Complainer or Respondent practising before such Court, on his receipt and obligation to lodge the same in the Process; but it shall not be necessary to return the Process in the said Local Court to the Clerk thereof, provided that the Complainer shall not obtain with the Process the Writs produced by the Respondent, unless by his consent.

Form of Intimation of Notes prior to Writs of Suspension being passed or refused.

7. That all Notes in the course of Procedure before Writs of Suspension are passed or refused, shall be intimated to the Agent of the opposite Party, by delivering to him personally, or leaving at his dwelling-place or chambers, a copy thereof; and the Certificate of Intimation shall specify the time of the day at which this was done; and the Deputy Clerk of Session, or his Assistant, shall not lay the Note before the Lord Ordinary without such Certificate, nor sooner than *Forty-eight* Hours at least after such intimation.

Reclaiming Notes or Writs of Suspension relative to depending Processes, to be remitted and discussed as contingent therewith.

8. That Reclaiming Notes against final Judgments or Writs of Suspension of Extracted Decrees of Local Courts, connected with or contingent to a previous Action depending before any Lord Ordinary or Division of the Court, shall, during Session, be presented only to the said Lord Ordinary, and he shall remit it ob contingentiam to the previous Process, to be conjoined and discussed along with such previous Process; and during Vacation, the Lord Ordinary officiating shall have power to remit de plano such Reclaiming Notes or Writs of Suspension to the Lord Ordinary, or the Division, before whom, or which, the previous Process depends; and the last-mentioned Lord Ordinary, or the said Division, shall conjoin such Reclaiming Note or Writ of Suspension and Process with the previous Process, or refuse the Reclaiming Note or Writ of Suspension.

Procedure in Suspensions and Interdict, or Suspensions and Liberation.

9. That when any Writ of Suspension and Interdict, or Suspension and Liberation is presented on Caution, or Juratory Caution, or consignation, the Lord Ordinary may order Answers, or hear Parties, or their Agents or Counsel, on the subject of the Interdict; but before doing so, he may, if he think fit, require Caution, or Juratory Caution to be found, or consignation to be made; or if the Writ be presented without Caution, he may appoint Answers to be lodged; and on Caution being found, or consignation made, or where no Caution is offered, the Lord Ordinary may resume consideration of the case with the Answers, or hear Parties, or their Agents or Counsel, as aforesaid, and either pass the Writ, and grant the Interdict, or grant Warrant of Liberation, or refuse the Writ, and find the Suspender liable in Expenses; and it shall not be necessary, after the Interlocutor passing the bill, to summon the Respondent of new, or to expede the passed Writ of Suspension; and the Depute Clerk of Session after the bill is passed, may order the Record to be completed and closed, as in an ordinary Action; and if the Record be closed without a revised Declaration, or a Proof by Witnesses, the Suspension and Interdict, or Suspension

and

and Liberation, may be decided on the merits, and the matter of expenses by the Lord Ordinary; but if a Revised Declaration, or a Proof by Witnesses be allowed, the Inner-House shall determine the Cause on the merits.

XXV.

Procedure in Jury Causes in Court of Session and Sheriff Court.

AND whereas the procedure in Jury Causes in Scotland requires amendment; BE it Enacted, That the following Ten Regulations shall be observed in all Jury Causes, whether before the Supreme, or Sheriff Courts, in Scotland:

General Issue and Special Pleas.

1. That where in any Action appropriate to Jury Trial, the Respondent, in his Answers or Defences, pleads the General Issue, that is to say, denies at once the whole Declaration, without alleging any special fact or matter, to evade the Declaration, the Respondent shall be deemed to put in issue only the question, whether the contract or debt, or other cause of Action stated in the declaration, ever had existence; and that all Answers or Defences which admit that such contract, debt, or other cause of Action ever had existence, but avoid such contract, debt or other cause of Action, by facts or matter subsequent, or which facts or matter show that such contract or debt, or other cause of Action, is void or voidable, either at Common Law or by Statute, or in Equity, and all Answers which consist of matter of excuse or justification, and all other Answers which do more than show that the contract, debt, or other cause of Action never had existence, shall be specially stated, or pleaded in the Answers, otherwise the same shall not be given in evidence under the general issue.

Misnomer.

2. That where, in any Jury Cause, the Respondent shall be misnamed in the Writ and Declaration, he shall give Notice thereof in writing to the Pursuer or his Agent, *Three* Days at least before the calling of the Cause, otherwise no advantage of such misnomer shall be taken in any subsequent stage of the Cause; and the Pursuer, at any time before extract, may alter the Writ and Declaration, by inserting therein the right name of the Respondent, and thereupon proceed as if the said Respondent had been correctly named in the original Writ and Declaration, at the time of service thereof.

Variance betwixt Statement and Evidence.

3. That if, upon the trial of any Action by Jury or otherwise, any objection shall be made for variance between the Declaration and any written Deed or Instrument produced, or offered in evidence, or otherwise appearing, the presiding Judge may order the Declaration to be altered, and made conformable with such written Deed or Instrument; and

which alteration shall be made accordingly, after the Trial, or previously; and in the meantime, for all the purposes of the Action, the Record shall be considered and treated as if such alteration had been made.

Tender.

4. That in Jury or other Causes, where any Person is owing a Debt to another, or liable in Damages for any act, omission, or other cause or ground whatever, such Person, either before or after the Action is raised, may tender to the Person by whom the Action shall have been raised, or may be brought, such sum of Money as he may think is justly due for such Debt, or he may think proper, as Damages for such act, omission, or other cause of Action; and if the Pursuer shall refuse to receive the same, and shall afterwards commence or proceed in the Action to recover the said Debt or Damages, the Respondent may plead such tender in bar of further Proceedings, Damages, or Costs; and if the Jury, at the Trial, shall find a Verdict, or the Court shall pronounce Decree for the Pursuer, but shall not assess the Damages at, or give Decree for a greater amount than the sum so tendered, then and in every such case the Pursuer shall only be entitled to his Costs of the Action, previous to the date of the Tender, and the Respondent shall be entitled to his Costs of the Action subsequent thereto, to be set off against the Debt or Damages, and Costs of the Pursuer; and the Party entitled to the balance shall obtain Decree for the same accordingly: Provided, That nothing herein shall prevent the Jury, in such case, from giving a less sum as damages, or the Court granting decree for a less sum of Debt than that proved to have been Tendered as aforesaid; and on every such Tender being so made as aforesaid, the Party to whom the Money is tendered may receive the same in full compensation for the Debt, or the injury he has received as aforesaid; or in case he shall then refuse to receive the Money tendered, he may nevertheless afterwards, either before or after the Action is brought, demand such sum of Money, and if such sum of Money be then, or within *Six* Days afterwards, paid to him, such payment shall have relation back to the time of the tender, and from that time be deemed a satisfaction of the Debt or Damages; and if such Money be paid to the Pursuer before the Action is raised, he shall not commence or maintain any Action for the recovery of the Debt, or of any further Damages; or if the same shall be paid to him after the Action is brought, then the Pursuer shall discontinue further to prosecute such Action, and shall be entitled to the Costs of the Action, previous to the said Tender; and the Respondent shall

shall be entitled to the Costs subsequent thereto; the Costs of the one to be set off agains the Costs of the other; and the Party entitled to the balance of such Costs, shall obtain Decree and Warrants of Diligence to recover the same: Provided, nevertheless, That where such demand by the Pursuer as aforesaid has been made, after the Action is brought into Court, and the Respondent's Costs from the time of the Tender made, would exceed the amount of the Pursuer's Costs, up to the date of the Tender, the Respondent, instead of paying the sum so demanded to the Pursuer, may pay the same to the Clerk of Court, and give notice thereof to the Pursuer, or his Agent; and all proceedings in the Action shall thereupon cease; and the Costs of the respective Parties shall thereupon be taxed by the Auditor of Court; and the Clerk of Court shall pay to the Respondent, or his Agent, the amount of the excess (if any) of his the Respondent's Costs over the Costs of the Pursuer, out of the sum so paid to him as aforesaid; or shall pay over the residue of such sum (if any) to the Pursuer; and if the sum so lodged by the Respondent with the Clerk shall not be sufficient to satisfy the Pursuer of the whole of such excess, then he shall, if necessary, obtain decree for the residue; but if the Respondent shall not, after the sum so tendered has been demanded of him as aforesaid, pay the same, then he shall only be entitled to his Costs of the Action, from the time of making such tender, to the time of making such demand as aforesaid; and the Pursuer thereafter shall be entitled to his Costs of all the proceedings in the Action.

Tender and Sum and time to be found by Verdict, or by the Court.

5. That in Jury and all other Causes, whenever a tender shall be pleaded as aforesaid, the Jury, or the Court where the case is not tried by the Jury, if, upon the evidence, the Jury, or the Court, shall be of opinion that such tender was made, shall find the same, and the amount of the sum tendered, and the time when such tender was made.

Proceeding at Jury Trials.

6. AND whereas the present manner of proceeding at Trials by Jury in the Court of Session is at an enormous expense and is very frequently attended with manifest injustice to Parties, and as such undoubted evils ought to be prevented; BE it Enacted, That a printed Copy of the Issues shall be given by the Clerk of Court to each of the Jury; and if required by either of the Parties, or any of the Jury, the Process Copy of the Record and Productions shall be laid before the Jury; and if required or if considered necessary, such Issues and Record shall be explained to the Jury by the presiding

Judge; and thereafter the Pursuer in the Issues, who shall be fixed at the Adjustment thereof, shall lead his evidence; after which, the Respondent shall adduce his evidence (if any) in opposition to that led by the Pursuer, as well as in support of any separate Issues taken by him, which last the Pursuer shall also be allowed to meet by counter evidence; provided, that the presiding Judge, upon Notice being given in the Notice of Trial, and upon application of either of the Parties to the Action, may, at the Trial, examine the Respondent in favour of the Pursuer, and the Pursuer in favour of the Respondent, upon oath, in presence of the Jury, if the presiding Judge shall think it right and expedient, and conducive to the ends of justice so to do; and such examination thereupon shall be deemed evidence in the cause as well for the Party examined as against him; and the proof being closed on both sides, the Pursuer, or his Counsel first, and the Defender, or his Counsel next, shall address the Jury; and the presiding Judge shall sum up the evidence; and either Party, or his Counsel, at the end of such address, may except to the same, either as to the effect of the evidence, or to a question to, or to the admissibility of a Witness, or as to any point of law ruled by the Court, or in the course of the Trial; but although no Exceptions may be sustained by the presiding Judge, at the time they are proponed, he, at the Trial, may allow a Verdict to be taken, subject to the Opinion of the Judges of the Division of the Court of Session to which he belongs; or, if the Trial be before the Sheriff, subject to the Opinion of any of the Divisions of the said Court, during Session, or the Judges on the Circuit Courts during the Christmas Recess or Vacations; and the Jury shall, either in the Jury Box, or after retiring to a separate Room, and agreeing upon their Verdict, deliver their Verdict vivâ voce, either generally, or as a special Verdict.

Costs in Jury Trials.

7. AND whereas, since the introduction of Jury Trial in Civil Causes in Scotland, numerous Actions of Damages have been raised, where nominal damages only have been given by the Jury, and in some of which Causes the Court of Session has given full Costs to the Pursuer, and refused them to the Defender; and such Actions of Damages have also, in various instances, been raised on frivolous grounds, for the purpose of concussion and oppression; and it is expedient to regulate the Costs to be allowed in such Actions; BE it Enacted, That where an Action of Damages is raised before the Court of Session, or the Sheriff, and a Verdict is obtained for Damages, not exceeding *Forty* Shillings, the said

said Court, or the Sheriff, shall find the Respondent or Defender entitled to his full Costs; and where such Damages exceed *Forty* Shillings, but do not exceed *Twenty-five* Pounds, no Costs shall be given to either Party; and where the Damages exceed *Twenty-five* Pounds, but do not exceed *Fifty* Pounds, the Court shall allow to the Pursuer Costs not exceeding the amount of the said Damages; and where the Damages shall exceed *Fifty* Pounds, the Court shall find the Pursuer entitled to full Costs.

Interest.

8. That in all Jury Causes for goods sold or work and labour, or any debt, or any demand in the nature of a debt, the Jury, by their verdict, may allow the Pursuer such sum as they shall think reasonable for interest on such debt or demand from the time, either by express contract between the Parties, or by the custom of trade, such interest shall have become payable.

Payment by Instalments.

9. That the Court of Session, or the Sheriff, in any Action, may order the sum found due to any Pursuer for debt and damages and costs, or the costs of the Respondent, to be paid either forthwith or at any future time, or by instalments, as the said Court or Sheriff shall think fit, on cause being shown.

Sums to be paid Jurors in Civil Causes before the Court of Session and Sheriff.

10. That each Juror, whether special or common, upon each Jury Trial in a Civil Cause before the Court of Session, shall receive the sum of ; and in a Jury Trial before the heriff the sum of , where the Juror resides within Ten Miles of Edinburgh, or the Circuit Town or place where the Trial takes place; and where the Juror resides at a greater distance from the Town or place of Trial, he in a Jury Trial before the Court of Session shall receive the sum of ; and in a Jury Trial before the Sheriff Court the sum of ; and which Sum, as the case may be, shall be payable to each of such Jurors by the losing party; provided that before any Jury shall be summoned, each of the Parties shall lodge in the hands of the Clerk of the Court the amount of the sums payable to the Jury for behoof of the Jury, subject to the orders of Court; and the sum lodged by the successful Party, shall be returned to him by the Clerk of Court after the Trial.

XXVI. Regulations as to Special Pleadings and Proceedings in

And be it Enacted, That the following enactments, being eight in number, with regard to the Special Pleadings and procedure in ordinary,

the Sheriff Courts in preparing Ordinary Causes for Judgment.

ordinary, summary, extraordinary or other Actions before the Sheriff and other Local Courts of Scotland, shall be observed:

Calling of the Cause.

1. That on the expiry of the Induciæ and the return of the Execution of Service, or on the Execution of Service being forced to be lodged by Protestation, (as in Article fifth of Section tenth hereof, with regard to the procedure in the Court of Session), the Sheriff or Town Clerk shall call the Cause in Court, in time of Session or Vacation and Recess; and a List of the Writs or Summonses so called, with the names of the Pursuers, and the names and designations of the Respondents, and the name of the Pursuers' Agent, shall be exhibited by the Sheriff or Town Clerk on a patent place in their offices, and remain open to the public inspection during office hours for *Two* Days during Session, and *Six* Days during Vacation and Recess.

Partibus and Minutes of Procedure and Interlocutors and Certified Copy of the Writ or Petition in Sheriff and other Courts.

2. That the regulations as to the Partibus and Minutes of Procedure and Interlocutors, and certified copy of the Writ or Petition in the Court of Session contained in section second, part thirteen, fourteen and fifteen, shall be followed as nearly as possible in the Sheriff and other Courts.

Protestation for not lodging Execution of Service.

3. That if the Pursuer shall not duly lodge with the Sheriff or Burgh Clerk, either during Session, or in the Christmas Recess, or Spring or Autumn Vacations, the Execution of Service of the Writ or Petition on the Diet of Compearance mentioned in the Writ, the Respondent may produce the Copy of the Writ and Declaration served on him; and if the Pursuer fail to appear and insist, the Respondent may crave Protestation, of which Protestation a copy shall be intimated by Post to the opposite Party, or his Agent, of the same date; and which Protestation, if not got scored, on production of the Execution of Service of the Writ or Petition by the Pursuer within *Eight* Days, the Sheriff or Magistrates shall admit the Protestation, with Costs to the extent of *Ten* Shillings, besides the expenses of Extract and the expenses of all manner of legal execution thereon (except Arrestment or Inhibition), as the same shall be taxed, and, together with his own fee, certified by the Auditor of Court on the back of the Extract, and which Protestation may be immediately extracted: Provided, That if payment of the said Costs shall be made to the opposite Party at any time before Extract of the Protestation, the Pursuer shall be thereby reponed and entitled to lodge the Execution of Service of the Writ or Petition, and insist in the cause; but that in case the Protestation be extracted, the instance shall fall,

fall, and the Respondent shall not be obliged to answer, except upon a new Writ and Citation on the ordinary Inducіæ.

Other Procedure in Sheriff and other Courts.

4. That the Sheriffs and other Judges and Parties shall observe as near as possible the Regulations hereinbefore prescribed in all ordinary, summary, extraordinary or other Causes competent before such Courts (excepting Small Debt Causes and in Causes where otherwise provided for and directed by this Act), which are here specially referred to and held as repeated, brevitatis causâ, in regard to the matters specially contained in the Sections of this Act enumerated on the Margin, and as follows: (that is to say), Section Ninth, relative to Processes borrowed from the Clerk being returned at the close of every summer Session; Section Tenth, Part One, Three and Four, and Parts Sixth to Forty-three inclusive, regarding Special Pleadings and Proceedings in the Court of Session in preparing ordinary Causes for judgment: Provided, That Declarations in the Sheriff or other Courts shall be framed in a similar manner as in the Court of Session, according to the Forms in Schedule (B.) Numbers I. and II., and in the Sheriff Court, Number IV. of said Schedule hereto annexed; and further provided, That the Costs to be allowed in Sheriff or other Courts for default, delay or neglect in the instances specified, shall be one-third of the sum allowed in the Court of Session, except that in the instance mentioned in Parts Twenty-third, Thirty-fourth and Thirty-fifth of the said Section Tenth, full Expenses as taxed, or modified, in the Sheriff or other Courts shall be paid without any deduction; and the time for lodging Answers in the Sheriff or other Courts shall be two-thirds of that allowed in the Court of Session in ordinary Actions, and two-thirds of the other periods mentioned in the Seventh Part of said Section Tenth, for seeing and returning Writs and Summonses, and in the Eighth Part of said Section, for obtaining Decrees in absence, or being reponed against such Decrees; and the other Regulations hereinbefore provided, the Numbers of which are also enumerated on the Margin, shall be observed in the said Sheriff and other Courts, namely, Section Eleventh, prohibiting Pleadings in the form of Cases; Section Twelfth, as to the privilege of Parties to plead vivâ voce and in writing in their own causes; Section Thirteenth, as to proceedings in classes of Actions in which the forms of process are different from ordinary Actions; Section Fourteenth, in so far as relates to Proceedings under the Bankrupt Act; Section Sixteenth, containing Regulations as to the procedure in Processes of Cessio Bonorum; Section Seventeenth, as to processes of Adjudication; and Section Eighteenth, as to processes

Sections IX. X. parts 1, 3 and 4, and parts 6 to 43 inclusive, Sections XI., XII., XIII., XIV., XV., XVI., XVII., XVIII., XIX., XXI., XXII., XXIII., and XXXII.

of Ranking and Sale; Section Nineteenth, as to Summary Processes; and Section Twenty-first, as to Actions of Aliment; and Section Twenty-second, as to Processes of Compt and Reckoning and other extraordinary Actions, in so far as competent before the Sheriff and Burgh Courts; Section Twenty-third, as to the Processes of Multiple Poinding; and also the Regulations hereinafter provided, namely, Section Thirty-second, as to Interlocutors: Provided, That every power that is conferred on the Lord Ordinary by the Enactments referred to, regarding the said Actions, shall be exercised by the Sheriffs or Magistrates of Burghs, and their Assessors, or other Judges, and the Sheriff or other Courts shall be understood when the Lord Ordinary or the Court of Session is referred to, but not thereby inferring the power of the Inner-House of that Court as a Court of Review; but the Parties in Actions before either the Sheriff or other Courts shall be bound to obtemper such Regulations in so far only as may be directed by the Orders of the said Sheriffs or Magistrates or their Assessors, or other Judges, as applicable to those Courts, and in so far as each of such Courts may have jurisdiction in any of the actions above specified.

Judicial Examinations of Parties, and Depositions of Havers and Witnesses, and Oaths of Parties residing within Jurisdiction of Sheriff or Burgh Courts, to be taken by the Sheriffs or Magistrates or their Assessors.

5. That all judicial Examinations of Parties, and Depositions of Havers and Witnesses, and Oaths of Parties, residing within the jurisdiction of the Sheriff, or Burgh Courts, whether in Actions depending before such Sheriff, or Burgh Courts, or in Actions depending either before other Local Courts in other jurisdictions, or before the Court of Session, where Remits or Commissions may be sent to such Sheriff or Magistrates of Burghs, and their Assessors, shall be taken by and in the presence of the Sheriff, or Sheriff Substitute, or Magistrates, and their Assessors, without fee or reward: Provided, That no Remits or Commissions to any other Person whatever shall be granted by the Sheriff or Sheriff Substitute, or Magistrates, and their Assessors, to take such judicial Examinations, or Depositions of Havers and Witnesses, or Oaths of Parties, residing within their respective jurisdictions, or Oaths of Parties in Processes depending before them, or where such Parties or Witnesses reside in other jurisdictions, who can be had to appear personally to be examined; but provided, that where Parties, Havers or Witnesses reside within another jurisdiction or other jurisdictions, and it shall not be lawful to summon them before such Courts in virtue of a Writ of Supplement or Warrant of Concurrence, or they cannot be got to come forward of their own accord to be examined by the Sheriffs or other Judges of Local Courts before whom the Actions are depending, they shall remit

Where Commissions may be granted.

or

or grant Commission to the respective Sheriffs or Sheriffs Substitute of such jurisdictions in which the Parties, Havers or Witnesses reside, in which case the said Sheriffs shall have power and jurisdiction, if necessary, to grant Warrants of Concurrence to cite such Parties, Havers and Witnesses to appear before them to be examined; and all such Examinations, Declarations and Depositions shall be taken by and in presence of such Sheriffs without fee or reward; but the Clerk employed to write the Declarations or Depositions shall in all cases be paid by the Parties for writing the Declarations or Depositions, according to the practice or the Table of Fees established, or to be established; and further provided, that it shall be no valid objection against a Witness that he has appeared without a citation.

Parties to be heard after Proof.

6. That when the proofs of Parties are closed, or the term of proving circumduced, either Party, or his Agent, may claim and shall be entitled to be heard, vivâ voce (but not in writing), on the proof or proofs taken, before judgment.

No written Pleadings on Objections to Witnesses, or the competency or pertinency of Questions to Parties or Witnesses.

7. That no written debate shall be allowed to the admissibility or credibility of Witnesses, or to the competency or pertinency of questions to Parties or Witnesses; but such objections shall be heard vivâ voce by the Sheriff Substitute, or the Magistrates and their Assessor, and immediately decided on; and the Sheriff Substitute, or Magistrates and their Assessor, shall, if required, make a Note on the Record of the objection and Judgment thereon, and the reasons of said Judgment; and where a Commission is granted as aforesaid, and an appeal is taken to the Sheriff or Magistrates on such Objection, the Commissioner shall take the Declaration or Deposition, but seal it up, and the Parties may be heard, vivâ voce, before the Sheriff or Magistrates and their Assessor, previous to removing the seals from such evidence, or parts of evidence; and no Petition shall be competent against any Interlocutor refusing or admitting evidence; without prejudice, where the Judgment is pronounced by the Sheriff Substitute, to an appeal being immediately taken to the Principal Sheriff, and that, in the event of such Appeal, the Sheriff Substitute shall transmit, with the Note of Appeal, his Notes of the Arguments vivâ voce of the Parties on the proofs, which Notes shall be lodged and remain in process; and should the Appeal be refused, the Sheriff shall find the Appellant liable in, and give an Interim Decree for, Expenses, not exceeding *Three Shillings and Four-pence* where the sum in dispute is under Twenty Pounds, or *Six Shillings and Eight-pence* where the sum in dispute is above Twenty-five

Twenty-five Pounds, and the Dues of Extract and of all manner of execution, and which Interlocutor shall not be subject to the review of the Court of Session, until after final judgment on the merits of the cause be pronounced.

No reclaiming Petition against a Judgment on a closed Record.

8. That after the Record has been closed, as hereinbefore directed, and the Parties, or their Agents, have been heard, vivâ voce, by the Sheriff Substitute, or Magistrates, and their Assessor, and an Order, or Interlocutory Judgment, or final Judgment pronounced by him or them, the same shall be final, and not subject to be brought under review of the Sheriff Substitute, or Magistrates, and their Assessor, by reclaiming Petition or any other form;

Appeal to Principal Sheriff.

provided that the Parties either in ordinary, or summary, or other Actions, within *Fourteen* Days from the date of the Interlocutor appealed against may bring any such Interlocutor of the Sheriff Substitute, under review of the Principal Sheriff, by a short Note of Appeal, mentioning the date of the Interlocutor of the Sheriff Substitute, without reciting the Interlocutor or making any other statement, except a Note of any additional pleas of law, with a short reference to the authorities founded on, not included in the pleas of law formerly stated in the Process, except in the case where a Party intends to present a Reclaiming Note to the Court of Session against an Interlocutory Judgment of the Sheriff Substitute, in which case, the Appellant shall state the grounds of Reclaiming against such Interlocutory Judgment in the Note of Appeal to the Principal Sheriff; and praying the Sheriff to alter or vary the same: Provided,

Where Reclaiming Note to Court of Session intended against an Interlocutory Judgment

Principal Sheriff to hear Parties, vivâ voce, in such Appeals.

That the Principal Sheriff, during the vacations, shall hold regular Courts in his Sheriffdom, and shall hear the Parties or their Agents, vivâ voce, on the whole cause, before disposing of such Appeals against the judgment of the Sheriff Substistitute, and thereafter he shall peruse the Process, and affirm or refuse the Appeal; and where the Appeal is refused, find the Appellant liable in the costs of Appeal not exceeding *One* Guinea; and the present practise of advising such Appeals out of Court, and without hearing the Parties or their Agents, shall cease and be discontinued, except in actions of a summary nature occurring during the period the said Sheriff Principal is not bound to be within his Sheriffdom, which may be forwarded as at present by the said Sheriff; and further provided, that when the contingency of a previous Process depending in the Court of Session is pleaded, the Sheriff Substitute or Principal may remit the Process before him to the Process depending in the Court of Session, without a Reclaiming Note being necessary.

AND

XXVII. Regulations as to Removing of Tenants.

AND whereas, it is expedient to improve the forms and lessen the expenses of removing Tenants of heritable or real Properties, including Lands, Mills, Fishings, Houses and possessions whatsoever in Scotland; BE it Enacted, That the three following Regulations regarding the Removing of Tenants shall be strictly observed:

On Notice of Removal.

1. That on a written Notice, in the form contained in the Schedule (I.) Number I. to this Act annexed, being served on the Tenant by the Landlord (or by an Agent either before the Court of Session, where the Action is brought in the Court of Session, and the rent of the subjects shall amount to *Twenty-five* Pounds or upwards, or where the Action is brought in the Sheriff or Burgh Court, and the rent is under *One hundred* Pounds, by a Messenger, or Sheriff or Burgh Officer, acting for such Landlord), or on a stipulation in a Tack that the Tenant shall remove without warning at the issue or determination of his Tack, or on a written promise, holograph, or duly attested by Witnesses according to the forms of the Law of Scotland, granted by the Tenant, to remove at the term of Whitsunday (or other Term), from such heritable Property, the Notice or promise being dated *Forty-eight* Days at least, where the Notice is to be called in the Court of Session, or *Forty-six* Days, at least, where the Notice is to be called in the Sheriff or Burgh Court, before the said Term of Whitsunday (or other Term); and on a Duplicate of such Notice, certified by such Landlord, or Agent, or other officer as aforesaid, acting for him, and one Witness, or two Witnesses, or on the said tack or written promise being recorded in the Court-books of Council and Session, or the Sheriff or Burgh Court-books, Decree of Removing and Ejection, shall, if no Appearance be made, be held as granted of course by the Court of Session, or the Sheriff or Burgh Court, without any written Application, and without requiring the Signature of any of the Judges of any of the said Courts: Provided, That such Decree of Removing and Ejection may be obtained within *Three* Days of the term of removing, or on the said term day of removing; and in the first case the charge to remove at the term may be given on an Induciæ of *Forty-eight* Hours, and in the second case of *Twelve* Hours, if the charge be given after *Twelve* of the clock of the term day of removal, or on the following lawful day; and if the Induciæ of the charge of removing has expired, the Decree of Ejection may be lawfully executed at any time on the term day, or on the *Six* following Days thereafter, but not afterwards.

Decree of Removing and Ejection in absence, if no Appearance for Tenant.

When such Decree may be obtained.

Induciæ of Charge to remove.

When Decree of Ejection may be executed.

Notice being called in Court, Tenant may enter Appearance and lodge Answers.

2. That the Tenant having received such a Notice, and the Notice being called in the Court of Session, or the Sheriff or Burgh Court, as the case may be, at least *Forty* Days previous to Whitsunday (or other Term), the Tenant may make Appearance in Court on the day mentioned in the Notice, (and if he make Appearance, the Notice shall then be held, as coming in place of the first step or Writ in an ordinary Action called in Court), and state Answers or Defences against the threatened Decree of Removing and Ejection, on any grounds of fact, law or equity competent to him: Provided, That on giving in Answers or Defences, the Tenant shall come prepared with a Cautioner for violent profits, to the extent of the rent to become due for the next year, and one-third more thereof, unless he shall instantly verify a Defence excluding the Action; and thereafter the same procedure as to the disposal of dilatory Defences, and the preparation and closing the Record, and judgment on the merits, shall be followed, as in an ordinary Action; and Decree for expenses of Process may be pronounced, and Warrants of Diligence, and Decree for expenses of all manner of legal execution granted, although no formal written conclusions for those purposes are appended to the duplicate Notice lodged in process.

Tenant to find Caution for violent Profits.

Reclaiming Note against Decree, or Suspension against Extracted Decree.

3. That where a Decree of Removing is pronounced, the Tenant, before Extract, may present to the Court of Session a Reclaiming Note against the Decree of the Sheriff or Burgh Court; or where the Decree is extracted, a Suspension of the Extracted Decree, without finding further Caution, or making any further consignation; but in the case of a Suspension the Tenant shall pay to the Landlord or his Agent the Expenses of Extract, and of the Diligence thereon, or consign in the Clerk's hands a sum to cover such Expenses as hereinbefore provided in regard to other Suspensions; and should such Reclaiming Note or Suspension to the Court of Session be intimated to the Landlord before the term of removing, no Decree of Removing or Ejection shall be executed until the final disposal of such Reclaiming Note or Suspension, but otherwise the Decree of Removing and Ejection may be issued and put in execution as aforesaid; and the Extract of the said Decree of Removing and Ejection shall as nearly as possible be in the form contained in Schedule (I.), Number III. to this Act annexed.

XXVIII. Poindings.

And be it Enacted, That in all Poindings of moveable Effects, the Messenger at Arms, or Officer of the Sheriff or Burgh Court, shall

shall get the effects pointed duly appraised by two Persons of skill, who shall be sworn by the Messenger or Officer, and authority to such Messenger or Officer to administer such oath is hereby given, and such Persons may also be Witnesses to the poinding; and such Messenger or Officer shall leave a List, or an Inventory thereof for the Party whose effects are poinded; and the amount or value of Appraisement of the effects contained in the said List or Inventory may be expressed in figures in the said List and Inventory, and Catalogue and Execution, and which Appraisement and Execution of Poinding, subscribed by the Messenger, or Officer, and said two Persons, shall be equally as effectual as Executions of Poinding in their present form now are.

XXIX. Procedure in Hypothecations and Sales for Rent.

AND whereas, by the present practice, Warrants of Hypothecation, at the instance of Landlords against their Tenants, for security of Rents, are granted by the Sheriff and Burgh Courts, without the debtor being cited in the Process of Hypothecation, and which are executed by Messengers, Officers of Court, or others, by taking an Inventory of all the goods and effects belonging to the Tenant which they can find or discover, without getting the same valued and appraised, as in Poindings, or confining the Hypothecation of such goods and effects to the real amount of the Rent, and a reasonable sum for the Expenses of the Process, Warrant, Execution and Sale; and it is expedient to assimilate such Hypothecations to Poindings: BE it therefore Enacted, That the following Regulations, being six in number, shall be observed in Processes and Warrants of Hypothecation and Sale at the instance of Landlords against their Tenants:

1. That no Warrant of Hypothecation shall be granted at the instance of a Landlord against his Tenant, before a copy of the Petition for Hypothecation, and of the relative Declaration, is served on the Tenant as after mentioned. No Warrants of Hypothecation to be granted before the Process is served on the Tenant.

2. That every Process of Hypothecation, at the instance of a Landlord against his Tenant, shall be raised by a short Petition, containing the usual Prayer, with a relative Declaration, and which Petition shall be registered, and a copy thereof, and of the Declaration, served on the ordinary induciæ, on the Respondent, as in an ordinary Action. Process of Hypothecation to be raised by Petition, and served as any other Action.

3. That the Respondent may enter appearance in any Process of Hypothecation, and lodge Answers or Defences on points of fact, law, or equity; and on considering the Petition and Declaration, with or without such Answers or Defences, the Respondent may enter Appearance, and lodge Answers.

Warrant of Hypothecation may afterwards be granted or refused.

Sheriff shall either instantly grant the Warrant of Hypothecation, or refuse the same in hoc statu, as may seem just; and thereafter, where appearance is made, and answers lodged, he shall appoint Parties to close the Record, with or without farther procedure, and try the cause in a summary way, and pronounce such Judgment as may seem just, in the same manner as in an ordinary Action: Provided, That where the Tenant has no good Answer or Defence to propone on the merits or otherwise, to the Action, he may lodge a separate Note, or add a Note at the foot of his Answers, where such are lodged by him, suggesting to the Court the name of a valuator or appraiser; and the Landlord, in that case also, in a Note at the foot of his Declaration, may suggest the name of another Appraiser; and the Court shall appoint such Appraisers, and an Umpire of skill to be called in by them in case of their differing in opinion, and such Appraisers and Umpire, or any two of them, shall make a just valuation, upon oath, of the goods and effects to be inventoried and hypothecated in terms of the Warrant, which valuation shall be equally binding on both parties.

Appraisers.

Appraisement and Execution of the Warrant.

4. That the Warrant of Hypothecation shall be executed by an Agent, Messenger-at-Arms, or Officer of Court, who shall take an inventory of the goods and effects hypothecated, and the value put on each article thereof by the Appraisers or Umpire appointed by the Court; and any two of such Appraisers and Umpire may also be witnesses to the execution; and the said Agent, Messenger or Officer shall leave a list, with the party or parties, or an inventory and appraisement of the goods and effects hypothecated; and the date of the Warrant, and amount or value of the appraisement of the goods and effects contained in the said list or inventory and appraisement, may be expressed in figures where necessary; and the said appraisement and execution of Hypothecation, subscribed by the Agent, Messenger, or Officer, and two of the said Appraisers or Umpire shall be equally effectual as executions of Hypothecation in the form followed previous to the commencement of this Act.

Power of Redemption or Purchase of any hypothecated Articles by the Tenant or his Friends.

5. That at or previous to the sale of the hypothecated articles, the Tenant or his friends may redeem or purchase any or the whole of the said articles, upon payment of the amount, or appraisement of any or the whole of such articles, to the Clerk of Court, or the Officer, or Agent at the Sale, who may conduct the same; and possession of such of the said articles purchased,

chased, shall be instantly given to the Person who pays the money; and in virtue of such possession the same shall belong to him, without any assignation from the Landlord, or decree of Court; and failing thereof, or of any Person at the sale offering the amount of the appraisement of any, or the whole of the said hypothecated articles, the same shall be declared by the Officer or Agent who conducts the sale, to belong to the Landlord; and the amount of the appraisement shall be held as equivalent to payment by the Tenant to him of so much of the Rent, and Expenses of the Process and Execution of Hypothecation and Sale, as the Expenses shall be taxed by the Auditor of Court; and the Clerk of Court, prior to the Sale, or the Landlord, or the Agent or Officer acting for him at the Sale, shall grant to the Tenant a valid and sufficient discharge of the said Rent and Expenses, on being taxed as aforesaid, to the extent of the amount of the value of the articles appraised and redeemed, purchased or sold, or acquired by the Landlord as aforesa d.

Landlord to take the Articles if not so purchased.

6. That the Sheriff may hear all applications for sequestration and sale of a Tenant's effects, where the Rent, exclusive of Interest and Expenses, does not exceed *Ten* Pounds, in a summary form, without a Record being made or closed; and the Warrant of Sequestration shall be in the form set forth in Schedule (A.) Number XIII. annexed to this Act, which shall be signed and issued of course by any Agent of the Court, without any actual application to, or Warrant by, the Court; but before being used, the same must be registered by the Sheriff Clerk in the Minute Book, and certified to be so registered by him; and the day and hour on which the application shall be heard by the Sheriff filled in by him; after which, the same shall be a legal Warrant, and the Tenant shall be cited on an Induciæ of not less than *Three* Days, without the necessity of any second or new citation; and on such hearing, the Sheriff shall issue or refuse the Warrant of Sale in whole or in part, and if the same be granted, it shall be carried into effect by an Officer of Court, and reported within *Six* Days after the Sale; provided that the Officer shall be entitled to act also as Auctioneer at the Sale, and shall not be liable in any penalty for so acting, any law or practice to the contrary notwithstanding; and the following and no higher Fees shall be allowed to be taken with regard to the Sequestration and Sale of a Tenant's Effects for such small Rents:

Sequestration and Sale of Tenant's Effects for small Rents.

AGENT'S FEES.

Trouble drawing Complaint and Warrant of Sequestration, getting the same registered by the Sheriff Clerk, and instructing Officer to execute Sequestration, printed Copy of Complaint and Copy thereof for service, and trouble attending Court, obtaining Warrant of Sale and instructing Officer - - - - - - - - -	*One Shilling* per Pound.

OFFICER'S FEES, INCLUDING ASSISTANTS.

Citation and Sequestration of Tenant's Effects and Inventory - - - - - - - - -	*One Shilling.*
Writing and getting printed, and putting up Advertisement, and attending Sale, reporting and paying Proceeds to Sheriff-Clerk (exclusive of expense of printing) - - - - - - - - -	*Sixpence* per Pound.

6 Geo. 4. c. 48. s. 17.

Travelling Charges to be allowed at the same rate as in the Act regarding the Recovery of Small Debts before the Justice of Peace Courts; and the said Fees shall be subject to modification, where the complaint is directed against *Two* or more Defenders.

XXX.

Procedure in Summary Diligence on Bills or Promissory Notes, for Sums not exceeding 10 *l.*

AND whereas, for the summary Recovery of Bills of Exchange or Promissory Notes, granted for sums each not exceeding Ten Pounds, it is at present competent to raise separate Letters of Horning and Caption, and to execute the same against the Debtor, which are attended with heavy and oppressive expenses, and it is expedient to diminish such expenses; BE it, therefore, Enacted, That no Letters of Horning and Caption, or separate Warrants of Charge, Arrestment, Inhibition, Poinding or Imprisonment, shall be raised on registered Protests, Bills or Promissory Notes, for sums each not exceeding *Ten* Pounds, exclusive of interest thereon; but any Protest on a Bill or Promissory Note for a sum not exceeding *Ten* Pounds, exclusive of interest, may be registered in the Books of Council and Session, or of the Sheriff Courts, and an extract Decree obtained, containing warrant to charge for payment of the principal sum in the Bill or Promissory Note, and interest, and to arrest, poind and sell, and including decree for *Five* Shillings as the Expenses of the Protest and extract Decree, and instructing the Officer to give a Charge; and a further Decree for the additional Expenses of the Charge thereon, and all manner of legal execution, as regulated by the Table of Fees hereinafter mentioned; and which Protest and extract Decree shall not be liable in any Stamp Duty; and which Extract shall be in the form in Schedule (D.) Number III. thereto

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thereto annexed: Provided, That if the Protest on any Bill or Promissory Note for a sum not exceeding *Ten* Pounds, exclusive of interest, shall not be registered as aforesaid, within *Six* Months from the date of the Bill or Promissory Note falling due, by which the privilege of summary diligence shall be lost, the amount of such Bill or Promissory Note may be recovered thereafter by an Action before the Sheriff Small Debt Court only; and the following and no higher Fees shall be taken by Agents or Notaries Public for Protests on Bills of Exchange for such small sums, and by the Keeper or Substitute Keeper of the Books of Council and Session, or Sheriff Clerks, or Messengers, or Sheriff Officers; (that is to say)

KEEPER OR SUBSTITUTE KEEPER OF BOOKS OF RECORD OF COURT OF SESSION OR SHERIFF CLERKS.

For Extract Decree following on recording Protest on a Bill or Promissory Note - - - -	*One Shilling.*

AGENT'S FEES.

Notary's Fees for Protest - - - -	*One Shilling.*
Trouble lodging Protest at Record, getting Extract, and instructing Officer - - -	*Two Shillings and Sixpence.*

MESSENGER'S OR SHERIFF OFFICER'S FEES, INCLUDING ASSISTANTS.

Charging and returning Execution of Charge against each Debtor - - - - - - - -	*One Shilling.*	
And where the distance from the Record Office exceeds *Two* Miles, for each additional complete Mile, the distance travelled in returning not to be reckoned - - - - -	The same rate per Mile as is allowed to Constables by the Justice of Peace Small Debt Act.	6 Geo. 4. c. 48. s. 17.

XXXI. REGULATIONS AS TO PROCEEDINGS IN INNER-HOUSE.

And be it Enacted, That the following regulations, being twelve in number, shall be observed in the Inner-House of each of the Divisions of the Court of Session:

Procedure in reclaiming Notes in Old Causes.

1. That in Causes which were in dependence previous to twelfth November One thousand eight hundred and Twenty-five, and on which the Lord Ordinary shall have pronounced judgment without a closed Record, as authorized by former Regulations, the Party dissatisfied with any such Interlocutor may bring the same under the review of the Inner-House, by a short Reclaiming Note, which shall be signed by the Party or his agent, and lodged like other Reclaiming Notes; provided that such Reclaiming Note shall be used only after a Representation

a Representation has been given in to the Lord Ordinary, and has been finally disposed of; and to every such Reclaiming Note the Party shall append a printed copy of the Summons and Defences and the Memorials or Representation, and Answers, if any, on which the Interlocutor complained of proceeded.

Reclaiming Notes against final Judgments of the Lord Ordinary.

2. That when any final Judgment on the merits has been pronounced by the Lord Ordinary in the Outer-House (except on Appeals in affirming or reversing the Orders of the Depute Clerks in so far as regards interim Costs or Expenses, or directing an issue to be tried by Jury, or passing a Writ of Suspension and Interdict, or Suspension and Liberation), either of the Parties dissatisfied with such final Judgment may apply for a Review of it to the Inner House of the Division to which the Lord Ordinary belongs, provided that such Party shall, within *Twenty-one* Days from the date of the Interlocutor, print and put into the boxes appointed for receiving the papers to be perused by the Judges herein-before mentioned, a Reclaiming Note prefixing the Lord Ordinary's Judgment and note thereto, if any, and praying the Court to alter the same in whole or in part; and the Party so applying shall, along with his Reclaiming Note as above directed, put into the boxes printed copies of the Record and Appendix thereto, and such Reclaiming Note shall not be received, unless there be appended thereto copies of the Papers authenticated as such Record and Appendix thereto, if the Record has been closed, including copies of the Writ or Summons, with the Amendment, if any, or copies of the Writ of Suspension, or of the Petition (excepting Writs or Summonses of Multiple Poinding, Adjudication, Constitution, Wakening and Transference, and Cessio Bonorum); provided, That such Appendix shall not exceed sixteen ordinary printed pages; but if the same shall exceed that length, the person presenting the Reclaiming Note shall print and box a copy of the Writ or Petition only, and not print any other part of such Appendix; and shall lodge a written Appendix, containing a reference to the Writ or Petition, and Record of the Special Pleadings, and Notes of Pleas and Appendix of Productions, arranged and authenticated as above directed; and after the Cause has been heard in the Short or Summar Roll, as the case may be, the Principal Clerk to the Process, and his first Assistant, shall transmit, for perusal, the Appendix to the Reclaiming Note and steps of Process forming the Appendix, to the Judges,

Appendix to such Reclaiming Note.

Judges, by whom the same shall be returned to the Clerk; and provided also, that when any of the Proceedings or Documents in a Cause have once been printed and boxed in the Appendix to any Note or Paper given in to the Inner House, the same shall not again, at any subsequent stage of the Cause, be boxed, but shall only be referred to in the Appendix thereto, or otherwise, by the description and date of such former paper, as containing the same; and the Respondent, at moving the Note, may crave leave to print, at his own expense, any additional productions which he may think necessary to be laid before the Court for their consideration, and the Party presenting the said Note shall at the same time give notice of the application for review, by delivery of six copies of the Note and Appendix, if printed as aforesaid, or if the Appendix be not printed, of a copy of the Note only, to the known Agent of the opposite Party; provided, that where the *Twenty-one* Days allowed for presenting a Reclaiming Note against an Interlocutor of the Lord Ordinary in the Outer-House, shall expire during Vacation or Recess, and the usual period of *Twenty-one* Days has expired, the Reclaiming days shall continue till the first box-day thereafter in such Recess or Vacation, or if they expire after the last box-day in the Vacation, they shall continue till the first Sederunt-day in such Recess or Vacation.

Respondent may, if allowed, print, at his own expense, addition Productions.

Reeclaiming Days not to expire in Vacations and Recess, till next Box-day or Sederunt-day.

3. That where before or after the Record is closed, the Lord Ordinary has pronounced any Interlocutor in default, or for not obeying any Order of the Depute Clerk or Lord Ordinary, or circumducing the term, or refusing to recall the statutory circumduction hereinbefore provided for not proving or not reporting Declarations of Parties or Depositions of Havers, Witnesses or Parties, which interlocutory judgment shall not exhaust the whole merits of the Cause, and the Party dissatisfied with the same shall present to the Inner-House a Reclaiming Note as aforesaid, the Appendix to such Note shall contain only a copy of the Writ or Summons, and of such productions as may be founded on by the Party presenting the Note, and it shall not include a copy of the whole Record or Pleadings; and the Inner-House, either when such Note is moved in the Roll of Single Bills, or when it is put out in the Short Roll or Summar Roll, as the case may be, may either refuse the Note or grant the prayer of it, or supersede consideration thereof till the other points of the Cause are disposed of or reported by the Lord Ordinary to the Court, or may remit to the Lord Ordinary, with instructions to recall his Interlocutor, and proceed further with the Cause, as may

Appendix to reclaiming Note against Interlocutory Judgments of Lord Ordinary.

seem just; and in any of these events, the Court shall determine the matter of Expenses, and modify the sum, not exceeding *Three* Guineas, for which and the expense of extract, and of all manner of legal execution thereon, an Interim Decree shall be granted.

Form of Reclaiming Petitions to be discontinued.

4. That in no case shall either Party hereafter bring any Interlocutor under review of the Inner-House by the form of Reclaiming Petition, as formerly in use.

Of the Review by the Inner-House of the Judgments of the Sheriff and other Courts.

5. That where a Record has been completed in the Sheriff or other Court, and the same has been closed anew, with an additional Note of Pleas, for either or both of the parties, and examined and authenticated by the Lord Ordinary, great avizandum shall be held as made with the process to the Inner House; and within eight lawful days thereafter, the Party Reclaiming shall, at the mutual expense of the parties, print the Appendix to the Reclaiming Note, including the Writ, or Summons or Petition, and Special Pleadings, forming the Record and Appendix of Productions admitted or proved, authenticated as aforesaid, and at his own expense print the Reclaiming Note itself, and box the same, but if the said Appendix exceed sixteen ordinary printed pages as aforesaid, the original Writ or Petition only shall be printed, and a written Appendix, containing only a reference to these papers, and the other Special Pleadings and Notes of Pleas forming the Record and Productions in Process, authenticated as aforesaid, shall be made up and lodged in Process, and the same and relative pleadings and productions shall be transmitted to the Judges by the Clerk to the Process, or his Assistant in the Inner House, as above directed; and the Cause shall forthwith be put out in its order in the short or Summar Roll, as the case may be, to be heard, and thereafter to be advised: Provided, That where in any Act of Parliament the word "Advocation" is used as a form of bringing the Judgments of the Sheriff or other Courts under the review of the Court of Session, the same shall be now understood as meaning "Reclaiming Note" in place of Advocation; and where in any such Act by "Advocation," the Review of the Court of Session was understood to be declared incompetent by Advocation, such Review shall still be held to be incompetent by the form of a Reclaiming Note.

Where Review of Court of Session was competent by "Advocation" to be so still by "Reclaiming Note," and where incompetent to remain so by Reclaiming Note.

Moving of Reclaiming Notes against Judgments of

6. That Reclaiming Notes against Final Judgments of the Lords Ordinary, or of the Sheriff or other Courts, shall be moved merely as single Bills, and immediately ordered to the Roll, and

and shall then be brought out in the short or Summar Roll, as the case may be to be advised; but Reclaiming Notes against Interlocutory Judgments of the Lords Ordinary, or of the Local Courts, shall not be ordered by the Court to the Short or Summar Roll, and shall be advised and finally disposed of by the Court, on appearing in the Roll of Single Bills, and as soon thereafter as the Pleadings shall have been perused by the Judges.

the Lords Ordinary or Sheriff or Burgh Courts.

7. That where a Party in any instance fails to lodge his Paper within the time fixed by the Inner-House, the cause may, immediately on the expiry thereof, be enrolled in the Summar Roll; and Judgment shall be pronounced against the Party so failing in such manner and to such extent as may, in the form and circumstances of the Procedure, be competently craved, unless, in those cases where no prorogation has been previously granted by the Inner-House, the Party failing can satisfy the Inner-House that a further time ought to be allowed to him; but such prorogation shall be granted only on payment of previous expenses, not exceeding *Two Guineas*, as the Inner-House shall deem reasonable.

Enrolment in Summar Roll, and procedure on failure to lodge a Paper.

8. That when causes come forward in the short Roll or Summar Roll to be advised, no delay shall be granted on account of the absence of Counsel or Agent, except in the case of ill health or other necessary absence, and then only for such short time as may be necessary to instruct another Counsel or Agent; and every enrolment in the Summar Roll shall be two days preceding the day on which the Cause shall be advised, except that during the last seven days of each Session, such enrolment may be made on the day preceding the advising.

When advising may be delayed, on account of the absence of Counsel.

9. That in all cases before pronouncing Judgment, the Court may order an Argument by the Parties or Counsel, vivâ voce, but not in writing, as often as they see fit, and on the whole or such parts of the Cause as shall seem to the Court to require further argument.

Court may order Argument.

10. That in all causes put out in the short or Summar Roll to be heard, whether on the merits in the first instance, on a Reclaiming Note against the Judgment of the Lord Ordinary, or report of the Lord Ordinary, or where Great Avizandum is held to be made, with a Reclaiming Note against an Interlocutory or final Judgment, or a Suspension, or Reduction of an extracted Decree of the Sheriff or other Courts, the Inner-House shall allow Parties or one or more Counsel on each side to be heard in a deliberate manner.

Hearing of Counsel in the Inner House.

Advising in Inner-House.

11. That after the Judges of the Inner-House have fully heard the Parties or Counsel in any of the divisions, they take time to form their Judgment; and thereafter the Judges shall appoint the Cause to be enrolled for the purpose of finally advising it, and shall then deliver in open Court their Opinions and Judgment.

Inner-House to determine Costs.

12. That on pronouncing Judgment on the merits of the cause, the Inner-House shall also determine as to costs or expenses, so far as not already settled, either giving or refusing the same in whole or in part, upon due consideration of the whole merits thereof.

XXXII. Interlocutors to be carefully framed; but may be corrected before Extract.

And be it Enacted and Declared, That every Interlocutor disposing of a Cause, both in the Outer-House and Inner-House, shall be carefully framed and considered, and have embodied therein, or annexed to it in a Note, the grounds or reasons on which the Judgment proceeds; and the final Interlocutor of the Inner-House and Note thereto shall be carefully revised by the presiding Judge of the Division of the Court which pronounces the Judgment, and thereafter a draught of the Interlocutor shall be communicated to the Agents of the Parties, and if no objections be stated, signed on the following day; but if there should be any objection to the terms of the Interlocutor on the day the Judgment is pronounced, the Parties, or their Agents or Counsel, may be heard vivâ voce on the meeting of the Court on the following Court day, and the Interlocutor then adjusted by the Court; and the Lord Ordinary, or the Court, in any Division of the Court, may, with or without the consent of Parties, correct an error in any Interlocutor, after being signed, at any time before Extract.

XXXIII. Taxation of Expenses between Party and Party.

And be it Enacted, That in the Taxation of any Expenses between Party and Party, incurred under the forms established by this Act, either in the Court of Session or in the Local Courts of Scotland, the same rules and the same rates of allowance shall be observed and adopted as are now observed and adopted in the taxation of expenses between Agent and Client, except in cases otherwise expressly directed by the Lord Ordinary, or the Inner-House, or the Sheriff or Burgh Courts, in the Interlocutor finding expenses due; and it shall be a general rule, that all expenses necessarily incurred in conducting the proceedings in the Action to which the account relates, whether extrajudicial or by rules of Court, or Orders of the Lord Ordinary, shall be allowed.

XXXIV. Transmission of Account

And be it Enacted, That when Expenses are found due to a Party, and a remit is made to the Auditor of the Division of the Court of Session

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Session to tax the Account thereof, the Account, together with a Copy of the Interlocutor finding Expenses due prefixed thereto, shall be lodged with the Auditor, who shall thereafter fix a time for the taxation thereof; provided, that when a Party requests the Auditor to fix a time for taxing an Account of Expenses, as aforesaid, the Account and the relative Process shall be produced at the same time; and the Induciæ of the Auditor's warning shall be *Four* lawful Days, or more, if necessary, from the date of Service, and which Warning or Notice by the Auditor shall be served personally, or at the place of business or dwelling-house of the opposite Agent, or Party, if there be no Agent; and the Account of Expenses and Process shall remain in the Auditor's hands, patent to the opposite Party or Agent, from that time to the time of auditing; and no Copy of the Account of Expenses shall be served on the opposite Party or Agent, and one Copy of the Account of Expenses for the Auditor shall be charged for; and the Agent for the Party found liable in Expenses shall see the Account of Expenses, and take such excerpts from it as he may require, and the Agent for the Party found entitled to Expenses shall attend at the time fixed for the auditing, and produce the Draughts or Copies of Papers, and other Vouchers of his Account to the Auditor; and after the Account is adjusted, the Agent, whose Account is audited, shall get back the Process, and the Account of Expenses, in order to return the same to the Clerk.

of Expenses to Auditor of Court of Session.

Account and Process to be lodged and remain with Auditor.

XXXV.

Objections to Report of the Auditor, Accountant, &c.

And be it Enacted, That when in any Cause a Report has been obtained from any of the Auditors, or Depute Clerks, or from an Accountant or other professional Person, and the Parties, or either of them, shall be dissatisfied with the Report, there shall be lodged with the Clerk to the Process a Note of Objections, stating them shortly and without argument, and a Copy thereof boxed for the Lord Ordinary or the Judges of the division of the Inner-House, within *Six* Days of the date of such Report being lodged in the Office of the Clerk to the Process, unless such time be prorogated by consent of the opposite Agent, and of which objections a Copy shall also be served on the opposite Party or his Agent, of the date of lodging the same, and the Cause shall be inrolled by the Assistant Clerk in the Outer, or Inner-House Assistant Clerk to the Process, as the case may be, before the Lord Ordinary if he made the remit, or the Judges of the division of the Inner-House if they made the remit; and at the time of enrolling the Cause, where the remit was made by the Lord Ordinary, a written Copy of the Note shall be furnished for the use of the Lord Ordinary, and where the remit was by the Inner-House, printed Copies of the Note shall be lodged in the Boxes for each of the Judges of the Division; and the principal Report shall be transmitted by the Clerk to the Process or his

Assistant to the Lord Ordinary, or the Judges of the Inner-House, as the case may be; and on hearing Parties, the Lord Ordinary, or the Court, shall give directions as to the farther disposal of the Cause, or pronounce Judgment, sustaining or repelling the objections, the Expense of such Discussion being always given against the objector in case his objections shall not be sustained; and the Judgment of the Lord Ordinary shall be liable to the Review of the Inner-House; and the Judgment of the Inner-House shall be subject to the review of the other two divisions of the Court.

XXXVI. Taxing of Expenses in Sheriff and Burgh Courts.

AND whereas it is expedient that each Sheriff and Burgh Court should appoint an Officer to audit all Accounts of Expenses between Party and Party, or between Agent and Client, where required in Actions, or summary Applications before the said Courts; and that uniform rules of adjusting such Accounts, so far as practicable, should be allowed in the Sheriff and Burgh Courts; BE it Enacted, That the following regulations, being eleven in number, shall be observed in taxing such Accounts of Expenses.

Auditor in each Sheriff and Burgh Court to be appointed.

1. That on or before the commencement of this Act, and as often thereafter as may be necessary, each Sheriff and Burgh Court in Scotland shall appoint a properly qualified Person, not being the Clerk of Court, or other Person in any way connected with such Clerk as his Depute, Substitute, Clerk, or otherwise, to be Auditor of all Accounts of Expenses incurred in the Court by which he is appointed; and for discharging his duty as Auditor, he shall be entitled to a fixed salary or to receive in the meantime the Fees specified in an Act of Sederunt of the Lords of Council and Session, dated Sixth day of March One thousand eight hundred and thirty-three, or such other table as may be established in lieu thereof by competent authority.

Time to be fixed for Taxing Account.

2. That when Expenses are awarded, and a remit is made by the Sheriff or Burgh Court to the Auditor of the Court to adjust and tax the Account thereof, the Account and relative Process shall be lodged with the Auditor, and remain in his hands patent to the inspection of the opposite Party or his Agent, and the Auditor shall fix a time for the adjusting thereof, not sooner than *Three* free days from the date of intimation; and the Auditor's Warrant for taxing shall be served on the Agent for the Party or Parties, found liable in Expenses personally, or at his place of business, or dwelling-place, that he may attend at the time so fixed; and the other directions as to auditing Accounts of Expenses in the Court of Session shall be observed.

3. That

3. That such Auditor, on the day and hour fixed by him for adjusting such Account, and in presence of the Agents of the Parties, or in absence, on proof of intimation to the absent Party, or his Agent, *Three* Days prior to the time of auditing, shall proceed to tax the Account in terms of the established Table of Fees, and ascertain the just amount thereof; provided, that where the items taxed off from the Account, or the items objected to sustained, shall not exceed *Ten* Pounds, the Party who claims the Account, or the opposite Party, may appeal verbally against the Report of the Auditor, in regard to all or any of the sums so taxed off or sustained (of which appeal the Auditor shall make a Note in his Certificate or Report), to the Sheriff or Burgh Court; and a Copy of the Note of objections to the Auditor's Report, without argument, shall, within *Forty-eight* Hours after receiving the Auditor's Report, be served on the opposite Party; and a clean Copy of the Note of objections lodged in Court; and the Court upon hearing Parties or their Agents, vivâ voce on the objections and answers thereto, shall affirm, alter or vary the Auditor's Report, and decern for the Sum of Expenses ascertained to be due, and also dispose of the expenses of the appeal, according as the Report of the Auditor is affirmed, altered or varied; and the Judgment of such Court, in so far as regards the taxation of the Account, and the expenses of appeal, shall be final, and not subject to the review of the Court of Session by Reclaiming Note Suspension or Reduction.

Procedure before Auditor of Sheriff or Burgh Court.

Appeal where items objected to, sustained or deducted, do not exceed 10*l*.

4. That where the amount of the sums objected to which are taxed off or sustained shall exceed *Ten* Pounds, either Party may appeal verbally against the Report of the Auditor of the date of his Report (such Auditor marking the several articles in the account objected to, taxed off and appealed against, and the aggregate amount thereof, and stating also the amount of the items objected to and sustained, and not appealed against), to the Auditors of the Court of Session; and the junior appointed Auditor shall distribute such appeals equally amongst the said Auditors, and *One* Auditor may dispose of such appeal in an ordinary case, without consulting the other *Two* Auditors; and the Sheriff or Burgh Court, in the meantime, shall have power to grant interim decree for the amount of that part of the account which is ascertained to be due, and not appealed against, and for the expenses of extract, and of all manner of legal execution.

Appeal to the Auditors of the Court of Session, where the Items objected to are taxed off or sustained exceed 10*l*.

Procedure after Appeal.

5. That in the event of such Appeal, the Appellant or his Agent in the Sheriff Court, shall forthwith intimate the name and address of his Agent in Edinburgh to the opposite Agent in the Sheriff Court; and the opposite Agent shall, in like manner, intimate the name and address of his Edinburgh Agent to that of the Appellant's Agent in the said Court; and the Edinburgh Agent of the Apellant, or, failing him, the Edinburgh Agent of the Respondent, may require any one of the Auditors of the Court of Session to fix the earliest day possible for disposing of the Appeal; and at the same time he shall lodge with the said Auditor the process, including the account taxed in the Sheriff Court; and after four days' intimation of the day and hour fixed for hearing the Appeal to the opposite Edinburgh Agent, the Auditor of the Court of Session, on the day and at the hour fixed, shall deliberately hear, vivâ voce, the Appellant or his Agent on the grounds of appeal, and the Answers of the Respondent or his Agent.

Auditor's Report of any matter to the Court of Session.

6. That if either Party then or afterwards require, the Auditor to consult with the other Auditors, the *Three* Auditors shall Report shortly, in writing, any matter or difficulty, or which may require to be regulated, to the Lord President of any of the Divisions of the Court of Session, dividing such Reports equally amongst the Divisions of the Court.

Procedure on Auditor's Report in Court of Session.

7. That on lodging such Report, the Lord President shall, on the day thereafter, consult with the other Judges of the Division of the Court over which he presides, or the Judges of the other Divisions, or the whole Judges, as to him may seem proper; and on or without hearing Counsel for the Parties, state the opinion of the Judges, and the Judgment of the Court, in open Court, in order that a precedent may be reported and followed in all the Sheriff and Burgh Courts; and the report of the Auditors, and Judgment of the Court of Session shall be forthwith transmitted by the Principal Clerk, or his Assistant, to the Auditors, in order that they may finally report to the Sheriff or Burgh Court accordingly; and no Fees of any description to any Clerk or Officer of Court shall be charged on such Appeal, Report and Procedure; and the said Auditors shall deliver their Report forthwith to the Agent of either Party.

Report of Auditor of Court of Session to be procured and

8. That in case the Report of the Auditor or Auditors in the Court of Session be not lodged with the Clerk of the Local Court within *Twenty-one* Days from the date of the Appeal to the said

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said Auditors, or satisfactory cause shown to the Sheriff or Burgh Court for the delay, the Sheriff or Magistrates, or their Assessor, may find the Appeal has fallen, and decern for the amount of the Expenses, as taxed by the Auditor of the Sheriff or Burgh Court, and for the Expenses attending the Appeal; but if the Report of the Auditor or Auditors of the Court of Session shall be lodged with the Clerk of the Local Court within the said *Twenty-one* Days, or afterwards allowed to be lodged on cause shown, the Sheriff or Burgh Court, shall grant decree in term of the Report of the Auditor or Auditors of the Court of Session.

lodged in the Sheriff Court within Twenty-one Days.

9. Provided, That the said period of *Twenty-one* Days shall not apply to Appeals against the judgment of the Auditors of the Sheriff or Burgh Courts in the Hebrides, Orkney or Shetland; and in such causes it shall be competent to appeal to the Auditors of the Court of Session of the date of the Report of the Auditor in the Sheriff or Burgh Court; and in that case the Appellant must produce to the Auditor of the Court of Session the Process, along with his Appeal, and *Thirty* Days or more on good cause being shown, shall be allowed to the Appellant from the date of the Appeal and Report to procure the Report of the Auditor or Auditors of the Court of Session; and further provided, that if it shall appear from the Report of the Auditors of the Court of Session, that the Appeal to them was well founded, the Sheriff or Burgh Court shall decern in favour of the Appellant for the sum of *One* Pound as the Appellant's expenses in the Appeal before the Auditors of the Court of Session; but if the said Auditor's Report shall prove that the Appeal was ill-founded, the Sheriff or Burgh Court shall decern in favour of the Respondent for the like sum of *One* Pound sterling as the Respondent's expenses of Appeal; and the said Court, according as the Appellant or Respondent is successful, shall award such expenses of the Appeal, in whole or proportionally, as shall appear from the said Auditor's Report to be just, and decern accordingly; and also for the Fees of Extract, and the expenses of all manner of legal execution.

Except in Causes before the Sheriff or Burgh Courts of the Hebrides, Orkney and Shetland, where Thirty Days from the Appeal shall be allowed.

Expenses of Appeal.

10. That such judgment of the Sheriff or Burgh Court, in so far as regards the taxation of the account, or the expenses of the Appeal, shall be final, and not subject to the Review of the Court of Session by Reclaiming Note, Suspension or Reduction; and the rules of taxation prescribed by the

Sheriff or Burgh Court's approval of Auditor's Report to be final.

Court of Session, shall be observed by the Auditors and Judges in all the Sheriff Courts in Scotland, subject to review before the said Court, on complaint being made and cause shewn by any Party before the said Court of Session.

Accounts of Agents, as between Agent and Clients, to be taxed.

11. That in order to prevent abuses, and provide an easy and speedy method by which accounts of agents, as between Agent and Client, in the Sheriff and Burgh Courts in Scotland, may be checked and liquidated, the Client, or Agent, or Person who may acquire right to his Account by Indorsation, Assignation, or Succession, may make a summary application, by a Minute or Petition to the Court in which the Process or judicial Arbitration therein was carried on, in respect of which the account is claimed; and the Sheriff or Burgh Court, if the Account be claimed by or for a resident Agent, shall remit the Account to the Auditor of such Court, or if the Account be claimed by or for an Edinburgh Agent, to the Auditors of the Court of Session, in order in either case to be examined and taxed, according to the existing regulations and established Table of Fees, for business before the Sheriff or Local Courts; which remit, or a copy of the Minute or Petition, and account of expenses claimed, if not previously rendered, shall, without a special Warrant of service, be served by an Agent, or an officer, on the opposite Party or his Agent, in the Process; and on the Minute or Petition being produced in Court, with a certificate or execution of service, the prayer of it shall be forthwith granted; and it shall not be competent to the Respondent, at this stage of the Proceedings, to state any Answers to the Petition or Minute and Account claimed; and the Auditor shall thereafter deliberately hear Parties vivâ voce on all objections to the Account, and report the just amount thereof; and if either Party be dissatisfied with his Report, an appeal shall be competent to the Auditors of the Court of Session, where the items objected to, disallowed, or sustained amount to *Ten* Pounds; and in the event of such appeal, the same procedure shall take place as is hereinbefore provided in cases of taxing accounts of expenses between Party and Party; provided, that the said proceedings may take place during the dependence of a process, or judicial arbitration, or after the process is out of Court, by an extracted decree or the decree-arbitral issued; and that whenever an Agent, or his Indorsees, Assignees, or Representatives, shall rather choose to raise a summons for payment of an account of expenses, the Court shall forthwith

Where an ordinary Action is preferred.

with remit to the Auditor of Court, without allowing written answers to be lodged at the first stage of the proceedings; but objections vivâ voce to the Auditor's Report, or an appeal to the Auditors of the Court of Session, shall be competent as above provided; and no decree for an account of expenses, in any case, shall be pronounced by the Sheriff or Burgh Courts in absence, or after having heard Parties, without a remit having been made to the Auditor, and a Report thereon obtained from him, unless the Account has been admitted, transacted or liquidated.

XXXVII. Regulations as to Extracts of Acts and Decrees of the Court of Session.

And be it Enacted, That the following Enactments, being six in number, shall be observed with regard to the Extracts of Acts and Decrees and Warrants of Diligence of the Court of Session:

Duplicates of Decrees for the Record.

1. That the Duplicates of all Decrees for the Record, and also Decrees of Adjudication, the abbreviates of which have heretofore been authenticated by the signatures of the Extractors respectively by whom the Decrees were prepared and signed, shall in future be made on one uniform size of fools-cap paper, ruled so as to indicate a page of writing in every respect as to margin and otherwise, similar to a page of print, and having not less than *Three hundred* Words in the page, and authenticated by the signature of the Agent who prepares the Extract, and signs it, and for the accuracy of which the Agent shall be responsible to the Parties and the Court of Session; and such Duplicates and the Process, with all the steps of proceedings in it, and Productions, not taken up by the Parties, shall be transmitted by the Clerk to the Process at the sight of the Agent who prepares the Extract, to the Examiner of Extracts and Keeper of the Judicial Records of the Court of Session, who shall not only examine the Extract Act or Decree, but of the proper date certify the same to be correct, and authenticate the same by his signature; and he shall thereafter progressively arrange the whole of such Records into one series, and carefully preserve the same until they shall be finally deposited in His Majesty's General Register House under the custody of the Lord Clerk Register of Scotland, as directed by an Act of the fifty-fifth year of his late Majesty King George the Third, intituled, "An Act for better regulating the Formation and Arrangement of the Judicial and other Records of the Court of Session in Scotland;" and the said Duplicates of Extracts shall from time to time be bound up in convenient volumes, with Indices.

55 Geo. 3. c. 70, s. 1 & 2.

Forms of Extracts of registered Documents not to be changed.

2. That the forms of Extracts of Decrees of the Court of Session interponed of course upon Protests on Bills of Exchange and Promissory Notes, and on Bonds, contracts or other instruments containing a clause of registration, recorded in the books of the Court of Session, shall remain without any alteration in their present form, except with regard to Extract Decrees on Protests of Bills or Promissory Notes for sums not exceeding *Ten* Pounds, as hereinbefore provided.

Form of Extracts of Acts and Decrees in Actions.

3. That the Extracts of all judicial Acts and Decrees in Actions before the Court of Session shall be made and signed by such Agents in the Court of Session according to the Forms contained in the Appendix Schedule (C.) hereto annexed; provided, that in all other cases not specially included in these Forms, whether arising on a Writ or Summons or Petition, or otherwise, the Extracts of the Acts or Decrees therein shall be according to the said Forms, with such variations as the nature of the case and the form of the first step of the Action may necessarily require; and further, provided that where the extract Decree of the Court of Session contains a decerniture for the Expenses of all manner of legal execution, and a charge thereon is given, the Respondent, before making payment of such expenses, or the Pursuer, may fix an hour with one of the Auditors of the Court of Session, of which notice by post shall be sent to the opposite Party, or his Agent, and get the same taxed and certified by the Auditor.

Dues of Extracts

4. That the said Agents shall be entitled to charge for all Extracts of Acts and Decrees of the Court of Session at the rate of *Six* Shillings for the first sheet, consisting of *Three* hundred Words, and parts of a sheet in proportion, and *Two* Shillings for every other sheet, in so far as the same may be written, and *One* Shilling for the printed parts, whatever the length may be, and for Duplicates of such Acts and Decrees at the rate of *One Shilling and Sixpence* per sheet of every *Three* hundred Words.

Signet Letters abolished on Decrees of the Court of Session or Local Courts.

5. AND whereas it is the practice to raise separate Letters of Arrestment or Inhibition on the dependence of Summonses before the Court of Session and Sheriff and Burgh Courts; and on Decrees of the said Courts following on such Summonses, to raise separate Letters of Charge, Arrestment and Poinding, and separate Letters of Caption, and sundry other Signet Letters, which are attended with expenses so great and unnecessary as to be oppressive to His Majesty's Lieges in

in Scotland; and it is expedient to abolish all such Letters; BE it therefore Enacted, That all such Signet Letters shall be and are hereby abolished, discontinued and prohibited.

Warrants to charge, arrest, poind, &c. to be included in Decrees in Actions before the Court of Session, but to be separate Warrants, following on Decrees upon Registered Bills of Exchange, &c.

6. That Warrants for Charging, Arrestment, Inhibition, Poinding, and open Doors and Imprisonment, shall be printed and included in the Extract Decree in Actions following on such Writs, according to the Forms contained in the Appendix Schedule (C.), and which Writ or Summons containing the said Warrants to arrest and inhibit, and Extract Decree containing Warrant to charge, arrest and inhibit, or to poind, open doors and imprison, and Warrants of Charge, Arrestment, Inhibition, Poinding, Open Doors, Imprisonment or others, to follow upon Decrees passed of course on Registered Protests on Bills of Exchange or Promissory Notes, and Bonds, Contracts or other Instruments having a clause of Registration, according to the Forms contained in the Appendix, Schedule (D.), hereto subjoined, and the Executions thereof shall be as effectual as the equivalent Letters passing His Majesty's Signet and Executions thereof were formerly; any law or practice to the contrary notwithstanding.

XXXVIII.

Registers of Hornings and Denunciations abolished.

Warrant of Imprisonment.

Evidence of Notour Bankruptcy.

Accumulation of Interest.

Evidence of Notour Bankruptcy.

And be it Enacted, That the general and particular Registers of Hornings and Denunciations shall be and are hereby abolished; and hereafter no Denunciation for debt shall be lawful; provided that, on a charge being given, in virtue of a warrant of charge, and execution thereof returned, and the days of charge expired, without payment being made, and after a return of the execution (bearing that every endeavour has been made, consistent with the knowledge obtained, to attach the Debtor's moveable property, and secure and apply the proceeds of the same in liquidation of the debt,) imprisonment may follow, in virtue of the Warrant of Imprisonment; and the warrant of charge, the execution thereof, the expiration of the days of charge, and the warrant of imprisonment, shall be held evidence of Notour Bankruptcy, and to come in place of the diligence of Horning and Caption, in the order prescribed by the hereinbefore recited Statute of the Parliament of Scotland, in One thousand six hundred and Ninety-six, for declaring Notour Bankruptcy; and that the accumulation of interest on the principal sum shall be held to take place from the expiration of *Fifteen* Days after the date of the charge without any Denunciation, and shall be as effectual and have the same effect as a Denunciation formerly had.

1696, c. 21.

XXXIX.

Regulations as to Extracts of Decrees, Warrants of Charge, Ar-

And be it Enacted, That the following Regulations, being three in number, shall be observed with regard to Extracts of Acts and Decrees,

restment, Inhibition, Poinding, open Doors, and Imprisonment in the Sheriff and other Courts.

Decrees, Warrants of Charge, Arrestment, Inhibition, Poinding, open Doors, and Imprisonment in the Sheriff and Burgh Courts:

Regulations as to Extracts of Acts, Decrees, &c. as in Court of Session.

1. AND whereas it is expedient that the Agents entitled to practise before the Sheriff and Burgh Courts, and residing within the jurisdiction of such Courts, should have ultimately a similar privilege in regard to the preparation of Extracts of Acts and Decrees of the Sheriff and Burgh Courts, and Warrants of Diligence thereon, in relation to Extracts of Acts and Decrees, and Warrants of Diligence in the said Courts, as is conferred on the Agents in the Court of Session; BE it Enacted, That on a vacancy occurring in the office of any of the present Clerks of the Sheriff or Burgh Courts, the privilege presently belonging to such Clerks, in regard to the preparation of Extracts of Acts or Decrees, shall cease; and the Agents in such Sheriff and Burgh Courts shall then prepare Extracts of all Acts and Decrees of the said Courts, which Extracts will then contain, as in the Extracts of Decrees of the Court of Session, the Warrants of Charge, Arrestment and Inhibition, if necessary, Poinding, Open Doors, and Imprisonment, which in the meantime only are kept in a separate form; provided that such Agents, before any such vacancy may occur, shall, from the commencement of this Act, and in the meantime, prepare all Warrants of Charge, Arrestment, Inhibition, Poinding, open Doors, and Imprisonment, following on Extract Decrees prepared by the Clerks of the said Sheriff or Burgh Courts, as above provided; and in all such matters, the Regulations prescribed in the Thirty-seventh Section hereof, and Parts One, and Sixth, of such Section, and which are here specially referred to, shall be strictly observed by the said Clerks and Agents in the said Local Courts, in relation to similar proceedings in the said Local Courts, and shall be imperative and obligatory on all Parties and Judges, except that the Forms of Warrants of Diligence on Decrees of the Sheriff and Burgh Courts shall be in the Form in Schedule (E.) annexed; and further provided, that where the Extract Decree of the Local Court contains a decerniture for the Expenses of all manner of legal execution, and a charge is given for such Expenses, the Respondent, before making payment of the same, or the Pursuer, may fix an hour with the Auditor of such Local Court, of which Notice by post shall be sent to the opposite Party or his Agent, and get the same taxed; and for taxing of such Accounts, the Auditors of the Sheriff and Burgh Courts shall be allowed to charge the Fees

in

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in Schedule (H.) hereto annexed: Provided always, That the duplicates of Decrees of these Courts, forming the Records of ordinary Actions, except Decrees of Adjudication, shall be preserved under the control of such Courts; and duplicates of Decrees of Adjudication pronounced in the Sheriff Courts shall (without the Process or Productions, which shall remain in such Courts) be transmitted as directed in the said Thirty-seventh Section, Part First thereof, before recited, to be preserved, as therein provided.

Duplicates and Record of Decrees of Adjudications.

2. That the said Agents shall be entitled to charge for all Warrants of the Sheriff or Burgh Courts, at the rate of Shillings for the first sheet consisting of *Three hundred* Words, and proportionally for parts of a sheet, and Shilling for every other sheet in so far as the same may be written, and *One* Shilling for the printed part, whatever the length may be, where the sum in dispute concluded for in the Writ or Summons or Petition shall exceed *Twenty-five* Pounds, and one-half of those rates (except for the printed part) where the sum in dispute concluded for as aforesaid is under *Twenty-five* Pounds; and when the Agents, on vacancies in the offices of the Clerks of the Sheriff or Burgh Courts, become entitled to prepare Extracts of Acts and Decrees of such Courts as aforesaid, they shall be entitled to the same rates of charge for such Extracts.

Dues of Warrants, and Extract Acts and Decrees in Local Courts.

3. That where a Warrant of Imprisonment has been issued by any Sheriff, or Magistrate, and where the Debtor resides, or is apprehended at any place nearer to the Gaol, situated in any other County or Burgh, than he is to the Gaol of the County in which he so resides or is apprehended, the said Debtor shall be imprisoned in such nearest Gaol, on the Warrant being indorsed by the Sheriff in which such Gaol is situated, in manner hereinbefore provided.

Debtor to be imprisoned in nearest Gaol, although in another County.

XL.

Authenticated Copy of Proceedings, Acts, Interlocutors or Decrees.

And be it Enacted, That if any Party require an authenticated Copy of the Proceedings, Acts, Interlocutors or Decrees, in any Cause, Action or Proceeding whatever before the Court of Session or other Courts in Scotland, the same shall be furnished, signed and certified to be correct by any of the Agents of such Courts respectively, but no fee whatever shall be paid or payable for such authenticated Copy, except the ordinary charge for copying paid at the time according to the respective Tables of Fees in such Courts; and such authenticated Copy shall and may be received in evidence in all Courts and by all Judges and others in Great Britain and Ireland and His Majesty's Dominions, without requiring the seal of the said

Court of Session or Sheriff or Burgh Courts, or any other certificate, or oath or solemnity whatever; and should any Person forge or counterfeit, or willingly act or assist in forging or counterfeiting the handwriting, name or signature of any of the said Agents to any Copy or alleged Copy of any of the said Proceedings, Acts or Decrees before the Court of Session or other Courts, or publish any such, knowing the same to be forged or counterfeited, with intention to defraud any person whatever, such Person so offending, being thereof lawfully convicted by any Court of competent jurisdiction, shall and is hereby declared guilty of *Felony*, and shall be punished accordingly by such Court.

XLI. If any Person neglect to execute any Deed, the Court may order a Principal or Depute Clerk of Session or Sheriff or Burgh Clerk to execute the same.

And be it Enacted, That when any Person shall be directed, by any Order or Decree of the Court of Session, or Sheriff or Burgh Court, to execute any Deed or other Instrument, if it shall appear to the satisfaction of the Court that such Person refuses, declines or neglects to execute the same, the Court may, after the expiration of *Six* Days from the date of service of the Order or Decree personally, and tender of the Draught of such Deed or Instrument to be afterwards extended for execution, make an order, upon motion in open Court, that one of the Principal or Depute Clerks of Session, or Sheriff, or Burgh Clerk, as the case may be, shall execute such Deed or other Instrument in the name of such Person, and the said Deed or other Instrument, when so executed, shall in all respects have the same force and validity as if the same had been made or executed by the Party himself.

XLII. Englishmen, Irishmen and Scotsmen to have the same privileges, in certain cases, in the Courts of the three Kingdoms.

WHEREAS where an Action is raised at the instance of an Englishman or Irishman, or subject, residing in England or Ireland, or brought against him in any of the Courts of Judicature in Scotland, he is obliged to sist a Mandatory in the Action, who is held personally liable in the Costs of the Action, if found due, but which liability is not always effectual by reason of the poverty, insolvency or bankruptcy of the Mandatory; and where a Scotsman, or subject residing in Scotland, raises an Action or Suit in the Courts of Common Law or Equity, or other Courts in England or Ireland, he is required to find security to the Defendant for payment of Costs, in the event of being found liable: And whereas it is expedient to extend the benefits of obtaining justice in all the Courts of Justice in the United Kingdom of Great Britain and Ireland equally to all the natives thereof, without imposing on them any restriction as to sisting a Mandatory, or finding security for Costs; BE it Enacted, That any Englishman, or Irishman, or subject residing in England or Ireland, may raise and insist in any Action or Suit, at his instance, or defend any Action or Suit brought against him in any Court of Judicature in Scotland, without being required to sist a Mandatory

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Mandatory resident in Scotland, liable to him for Costs; and any Scotsman or subject residing in Scotland, may raise and insist in any Action or Suit at his instance, or defend any Action or Suit brought against him in any Court of Common Law, or Equity, or Ecclesiastical, Admiralty or other Court in England or Ireland, without finding Security for Costs: Provided that such Englishman, or Irishman, or Scotsman, or subject, shall always be truly designed in the proceedings in such Action or Suit, and that, should judgment or decree be given against him in any Scots or English or Irish Court respectively, in any Action or Suit to which he is a party, an official extract of the Decree or Judgment against him, according to the form used in such Court, shall be as effectual against him as if the same had been pronounced against him by the competent Court of the United Kingdom to the jurisdiction of which he is subject; and effect shall be given thereto in every competent Court in the United Kingdom; and execution shall be issued against him, wherever he may reside, on such judgment, according to the forms used where he resides, whether in England, or Ireland, or Scotland.

XLIII. Regulations in Appeals to Circuit Courts.

And be it Enacted, That the following regulations, being three in number, shall be observed in Appeals from the Sheriff and Burgh Courts to the Circuit Courts of Justiciary.

1. That all Appeals from final Judgments of the Sheriff or Burgh Courts to the Judges of Justiciary of the Circuit Courts, in terms of the said recited Act of the twentieth year of his Majesty King George the Second, and thirty-first of his said Majesty, and fifty-fourth of his Majesty King George the Third, any Agent before the Supreme or other Courts may support or oppose such Appeal before the said Judges of the said Circuit Courts.

To be supported or opposed by Agents of the Supreme Sheriff or Burgh Courts. 20 Geo. 2, c. 43, s. 61. 31 Geo. 2, c. 42. 54 Geo. 3, c. 67.

2. That two Judges at least shall attend at each Circuit in the Christmas Recess (where there are such Circuit Courts held), and in the Spring and Autumn Vacations, either of which Judges shall have full power and authority to dispose of all Appeals from the Sheriff and Burgh Courts, and other matters in Jury Causes in the Sheriff Courts: Provided, That either Judge, in case of difficulty, may take the opinion of the other Judges of the Division of the Court of Session or Justiciary to which he belongs.

Two or more Judges to attend on Circuits.

In case of Difficulty, to take the opinion of other Judges.

3. That all the business, whether civil or criminal, before the Circuit Courts, shall be solemnly and deliberately heard, discussed and determined, and the reasons and opinion of the Judges, stated in open Court; and the Judges at such Circuits

Business at Circuits to be deliberately determined, and Opinions of the Judges given in open Court.

cuits shall remain a sufficient time to dispose of all such business at such Circuit, except in cases of such difficulty as either of said Judges shall certify to the Court of Session or Justiciary as aforesaid.

XLIV.

Regulations as to Arbitration to any of the Lords Ordinary, or Sheriffs Principal or Substitute.

And be it Enacted, That the following regulations, being three in number, shall be observed in every Arbitration to any of the Lords Ordinary or the Sheriff, Principal or Substitute:

Parties may refer to such Arbitration.

1. That Parties may agree that they shall submit and try any matter of Fact, Law or Equity before any of the Lords Ordinary of the Outer-House of the Court of Session, or any of the Sheriffs, Principal or Substitute, by way of Arbitration to the said Lord Ordinary, or any of the Sheriffs, Principal or Substitute; and the Minute of reference shall refer to the Writ or Summons, or Petition, or the Process, or otherwise shortly, and summarily and without argument set forth the facts of the matter in dispute, and state whether the Judgment of the Lord Ordinary, or Sheriff, shall be final or subject to review and shall be dated and signed by the Parties or their Agents, but not by Agents without the consent in writing of the Party; and the said Minute shall not require to be tested according to the forms of testing important Documents by the Law of Scotland; and such Minute, and the Award or Decree-arbitral (which last shall not recite any of the Pleadings or Details of Procedure, nor be tested) to follow thereon, shall not be subject to any stamp duty.

Procedure in Arbitrations.

2. That the Lord Ordinary, or the Sheriff, shall proceed to prepare the Record in the matter so to him referred, by ordering the Pursuer, within *Fourteen* Days, or sooner, to lodge a Declaration, and the Documents on which he founds, and the Respondent within *Fourteen* Days, or sooner, to answer written Interrogatories, and lodge Answers to the Declaration, and produce Writings, and otherwise in making up a Record, as hereinbefore directed, in the case of ordinary Causes; and in the course of the Procedure, the Lord Ordinary, or the Sheriff, shall have the same powers as in ordinary or other Causes, and particularly to order and take Judicial Examinations of the Parties, and the oaths of Havers and Witnesses, and Remit to the Depute Clerks or Auditors of Court to act as Accountants in such Arbitrations, and for acting in such Remits, no fees shall be charged by such Depute Clerks or Auditors, and shall adjourn the hearing of the matter as he shall think fit, and shall direct what other Evidence he may require to be brought before him, whether it be by Witnesses

or

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or Documents or Oath of Party; and after hearing the whole matter, the Lord Ordinary, or the Sheriff, shall make his Award in writing, and order that the sums shall be paid at a specified time, or by instalments, which Award shall be final and conclusive, and shall contain Warrant to charge, arrest, inhibit, poind, open doors, or imprison, if required, as in the Extract of a Decree of the Court of Session hereinbefore provided: Provided, That if either Party shall desire, or if the Lord Ordinary or the Sheriff shall think fit, before pronouncing his Award, he may try the whole or any part of the Cause referred to him, in like manner as ordinary Causes are tried by Jury; and the Verdict of such Jury shall be binding on his Judgment; and the Lord Ordinary, or the Sheriff, may summon a Jury for such Trials, and may find either Party liable in the Costs of the Trial, and his Judgment shall not be subject to review of the Inner-House of any of the Divisions of the Court of Sessions, nor to Appeal to the House of Lords: and further provided, That the Depute Clerks of Session, or the Sheriff Clerks, shall be the Clerks in all such Arbitrations, in the same manner as in ordinary Actions; and that neither they nor the Lords Ordinary, or Sheriffs, shall demand or receive any Fees whatever for any steps of Procedure, or the Decree-arbitral in such Judicial Arbitrations.

Depute Clerks of Session, or Sheriff Clerks to be Clerks to such Arbitrations.

3. That the Lord Ordinary, or the Sheriff, in the Cause referred to him, shall award the Costs to be paid by either Party to the other as he shall think fit; and may remit the Account of such Costs to the Auditors of Court, to be adjusted and taxed; and no fees shall be charged by them for acting under such Remits; and his Judgment regarding Costs shall be final, and not subject to the review of the Inner-House, unless otherwise agreed upon as aforesaid.

Costs on Procedure under Reference.

XLV.

Causes to be tried in private, by consent of Parties.

And be it Enacted, That if in any Action or Cause depending before the Court of Session, or the Sheriff, or referred to the Lord Ordinary or the Sheriff, it shall appear to the Lord Ordinary, or the Sheriff, to be fit to be tried in private, the Court or the Lord Ordinary, with the consent of both Parties, may proceed to try the same in private, at such place as may be thought proper to appoint; and if either Party refuse to have the cause tried in private, a sufficient reason shall be assigned, vivâ voce, in open Court, by the Party so refusing.

XLVI.

Caution judicio sisti de damnis et impensis, and Caution judicatum solvi dispensed

AND whereas, according to the Maritime Law of Scotland, caution judicio sisti et de damnis et impensis for the Pursuer, and caution judicio sisti et judicatum solvi for the Defenders, must be found in all

with, when Defender resides in Scotland.

Maritime Causes now competent before the Court of Session and Sheriff Courts: AND whereas the enforcement of this rule would amount to a denial of justice, where a Party might not be able to find Caution; BE it Enacted, That in all Maritime Causes depending before the Court of Session, or the Sheriff Courts, neither the Pursuer nor Defender in such Actions shall find Caution; and such Actions may be pursued or defended without Caution, in the same manner as other ordinary Actions, Mercantile or otherwise, in the said Courts.

XLVII. APPEALS TO HOUSE OF LORDS.

AND whereas the procedure in Appeals from the Judgments of the Court of Session to The House of Lords is attended with heavy expenses, and experience has suggested some improvements by which that expense may be diminished, and the forms of procedure in such Appeals better regulated; BE it enacted, That the following regulations, being eight in number, shall be observed with regard to all Appeals from the Court of Session in Scotland to The House of Lords:

Certified Copy of Process in Court of Session not to be required in House of Lords.

1. That the Appellant in any Appeal to The House of Lords from the said Court, shall not be required to procure from any of the Principal Clerks of Session, or their Assistants, an authenticated Copy of the Process; and the Principal Clerk of Session, or his Assistant, in whose office the Process is fixed, shall, on the requisition of the Appellant, or Respondent, or either of their Agents, transmit a letter by post, and send in a parcel by the mail coach the original Process, and an Inventory thereof, addressed to the Clerk of the House of Lords, and the last-mentioned Clerk shall acknowledge by Letter, receipt of the Process, and, after the Appeal is finally determined, return the Process on the requisition either of the Appellant or Respondent, or either of their Agents, in a similar manner, addressed to the Clerk to the Process who transmitted it to him, or his successor in office; and such Clerk to the Process, on receipt of such parcel, shall write the Clerk of the House of Lords, acknowledging that the Process has been received by him.

Appeal Cases to be discontinued.

2. That when any Cause shall be carried by Appeal to the House of Lords, no Cases shall be prepared in the form now used in the House of Lords; and instead of such Cases, the Appellant shall prepare Reasons of Appeal, to be headed thus, "Appellant's Reasons of Appeal for A. B.," and begin thus: "The Appellant prays that the Interlocutors of the Court of Session, recited in the Petition of Appeal, may be reversed, varied or altered, for the following among other reasons;" and the Respondent's

Form of Appeal and Reasons for Appellant.

Form of Reasons for Respondent.

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spondent's Reasons of Appeal shall be headed "Respondent's Reasons for Affirmance of Interlocutors Appealed against," and shall begin thus: "The Respondent prays that the said Interlocutors may be affirmed, for the following reasons:"

Further Rules in stating Reasons of Appeal, both of Appellant and Respondent.

3. That both Appellants and Respondents in stating the reasons shall omit all general narrative or statement of the Case, and introduce the statement of such facts only as having been admitted or proved, are strictly necessary to found the reasons and arguments in Law which they wish to lay before the House; and provided, that one printed Copy of the Reasons for the Appellant, and of the printed Petition of Appeal, shall be signed by the Appellant, or the Counsel, who prepared the Reasons, and no Petition of Appeal shall be received unless so signed.

Petition of Appeal, Record and Reasons of Appeal to be printed.

4. That the Appellant, within *Two* Months after the Petition of Appeal, containing all the Interlocutors in the Court of Session, is lodged, shall print the said Petition of Appeal, in the quarto form, as papers in the Court of Session are printed, and also a full Copy of the whole Record of the Averments and Pleas, and the Proofs and Productions admitted, or tendered and authenticated by the Lord Ordinary, if any, all certified to be correct by the Agent of the Appellant in the Court of Session, which Record and Reasons of Appeal shall form an Appendix to the Petition of Appeal.

Respondent may be found liable in Costs.

5. That where it shall appear to The House of Lords, that on reversal of the whole or any part of the Interlocutors of the Court of Session, the Appellant is entitled to Costs, The House of Lords shall have power and jurisdiction to award, decern and adjudge such Costs against the Respondent.

Judgment in House of Lords as effectual in Scotland, as that of Court of Session.

6. That every Interlocutor, Judgment or Decree of The House of Lords in Appeals from the Judgments of the Court of Session shall be as effectual in Scotland as if pronounced by the Court of Session, and no Petition to the Court of Session to apply any such Interlocutor, Decree or Judgment of the House of Lords shall be competent; and any such Interlocutor, Decree or Judgment, may be extracted in Scotland in a similar form, as if the same had been pronounced by the Court of Session; and the Extract shall be framed and signed by an Agent of the Court of Session, and certified to be correct, and authenticated of the proper date by the signature of the Examiner of Extracts and Keeper of the Judicial Records of the Court of Session in a similar manner as an Extract Decree of the Court of Session; and such Extract

shall of course, without any special warrant of The House of Lords, contain a warrant to charge the Appellant or Respondent to pay the principal Sum and Interest found due by the Judgment of The House of Lords, and also the costs in the Courts of Scotland and House of Lords, if found due in the House of Lords, also the expenses of Extract, and all manner of legal execution, within *Fifteen* Days, and in which Extract shall also be included a Warrant of Arrestment or Inhibition, if required, and of Poinding, open Doors and Imprisonment, and in a form similar to such Warrants in an extract Decree of the Court of Session.

Recognizance in Appeals to House of Lords to be discontinued

7. That the Recognizance which is at present taken in Appeals from the Court of Session to The House of Lords shall, from the commencement of this Act, be discontinued.

Costs in Appeals may be modified or taxed.

8. That when Costs or Expenses are awarded in the House of Lords to either Party, that House may either modify the same, and decern for the amount thereof, and also for the Costs or Expenses of all manner of Execution on such Decree for Costs or Expenses, as the same shall be ascertained and certified by the Auditor of the Court of Session, or appoint a particular Account of Expenses to be lodged, and remit the same to the Auditor of the Court of Session, and to decern for the amount of such Account, as shall be ascertained to be due on taxation by such Auditor.

XLVIII.

Table of Fees for Agents in the Court of Session and Messengers at Arms to be established.

And be it Enacted, That the Lords of Council and Session shall be and they are hereby empowered and required to prepare the Draught of a Table of Fees for the Agents of the Court of Session, and Agents and Officers of the Sheriff and Burgh Courts, and Messengers at Arms, regard being had to the provisions of this Act, and to circulate printed Copies of the said Table of Fees amongst the said Agents and others interested; and the said Lords of Council and Session shall give an opportunity for receiving explanations or information from the said Agents of the Court of Session, and other Courts of Scotland, and from Messengers at Arms, and Officers in the said Courts, and have conferences with them, or any Deputation or Deputations appointed by them, or of the different Law Bodies connected with the College of Justice, and after being well advised in that behalf, and after having afforded an opportunity to all Parties interested of being heard, and also His Majesty's Advocate in behalf of the Public, the said Lords of Council and Session shall, by an Act of Sederunt, to be dated on or before the First day of February next after the commencement of this Act, make and establish Tables of Fees for the said Agents in the Court of Session, and for Agents, Messengers at Arms, and Officers in the Sheriff and Burgh Courts.

Provided

XLIX. Copy of Act of Sederunt to be transmitted to the Secretary of State for the Home Department, and laid before Parliament.

Provided always, That a Copy of such Act of Sederunt shall be transmitted by the Lord President of the Court of Session to the Secretary of State for the Home Department, who shall cause a Copy thereof to be laid before each House of Parliament at or immediately after the commencement of the then next Session thereof, and from the expiration of *Three* calendar Months after the first day of such Session, such Act of Sederunt and Table of Fees established thereby shall become in force; and thereafter every such Fee, according to the terms of such Act of Sederunt, shall be deemed and taken to be a legal Fee, and payable and receivable as such in the manner therein directed, and no other Fee shall be held to be legal or payable in any case whatever.

L. When difficulties in Practice occur in the Court of Session, Sheriff or Burgh Courts.

And be it further Enacted, That if any difficulties shall at any time occur before the Lords Ordinary in the Outer-House of the Court of Session with regard to proceedings under the forms of Process hereby established, or in Jury Causes, or in the Inner-House of the Court of Session, or in the Sheriff or Burgh Courts of Scotland, the Lords Ordinary, or any of them, in the Outer-House, or the Lords President in the Inner-Houses, or the Faculty of Advocates, or the Society of Writers to the Signet, or the Incorporated Society of Solicitors, or the Association of Advocates' First Clerks, or any of the Judges, or Agents, in any of the Sheriff or Burgh Courts, may report in writing such difficulties to the Judges of the Court of Session, and such Judges are hereby required to take such Reports into consideration, and report to the Secretary of State for the Home Department, to be forthwith laid before both Houses of Parliament for their consideration, such additional Rules and Regulations as to the Forms of Procedure in the Courts of Law in Scotland, as they may be of opinion should be enacted by Parliament; and to which Report by the said Judges of the Court of Session shall be subjoined, in an Appendix, all such Reports or written Communications as shall have been submitted to them; and such Report shall be made once every year on or before the *Fifteenth* day of *January*.

LI. The Attorney Tax, &c. abolished.

AND whereas, Attornies, and Agents, and Procurators in the Courts of Judicature in Scotland, are burdened with certain Taxes, which are partial, and operate with great injustice: And whereas a proportionate decrease of their Emoluments will take place in consequence of the great relief which the provisions contained in this Act will afford to the Public by allowing parties to plead in their own causes, and by otherwise diminishing the expenses of Judicial Procedure: And whereas Sheriffs Principal and Substitute, and Procurators Fiscal on receiving new Appointments, which frequently happen, are obliged to pay Stamp Duty on their Admission or Commission on every new Appointment; and it is expedient and proper that relief should be granted to such Attornies, Agents and Procurators;

curators; and also to such Sheriffs-Principal and Substitute and Procurators Fiscal; BE it Enacted, That the Tax known by the name of the Attorney Tax or License Duty, shall cease to be collected, and shall be and is hereby abolished; and no Person wishing to become a Law Agent shall hereafter be subjected in more than *One-half* of the present Stamp Duties payable for Indentures, and for Admission as a Writer to the Signet, or Solicitor before the Supreme Courts, or Notary Public, or as a Law Agent in any of the Sheriff or Local Courts of Scotland; and no Sheriff-Principal or Substitute, or Procurator Fiscal, who on his first appointment to his office has paid Stamp Duty on his Admission or Commission, shall be required to pay the same Duty on any renewed Admission or Commission to such Office in the same or any other County, by whomsoever the same is granted, unless there be any additional salary in respect of such renewed Admission or Commission, and in that event, Stamp Duty shall be chargeable and payable to the extent of such additional Salary only; and so much of the following Acts of Parliament as impose the said Stamp Duties, and are contrary to the enactments in this clause, *videlicet*, the first, third, fourth, fifth, sixth, seventh, eighth, ninth and twenty-ninth Sections of an Act passed in the twenty-fifth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for granting to His Majesty certain Duties on Certificates to be taken out by Solicitors, Attornies and others practising in certain Courts of Justice in Great Britain," &c.; the second section (Schedule, Part I., voce "Admission," "Articles or Indentureship of Clerkship or Apprenticeship," "Certificate," "Faculty, License or Commission,") of an Act of the fifty-fifth Year of his Majesty King GEORGE the Third, intituled, "An Act for repealing the Stamp Duties, Law Proceedings, and other written or printed Instruments," inter alia; "and for granting other Duties in lieu thereof;" and the fifth, sixth, seventh, eighth, ninth and tenth Sections of an Act of the ninth year of his late Majesty King GEORGE the Fourth, intituled, "An Act to amend the Laws in force relating to the Stamp Duties on Sea Insurance, on Articles of Clerkship, on Certificates of Writers to the Signet, and of Conveyancers and others," &c. shall be and are hereby abolished.

25 Geo 3, c. 80, sects. 1, 3, 4, 5, 6, 7, 8, 9 and 29, so far as relative to Scotland, 55 Geo. 3. c. 184. s. 2., and 9 Geo. 4, c. 49, sects. 5, 6, 7, 8, 9 and 10.

LII. Construction of this Act.

And be it Enacted, That in all cases in this Act when the term "Rule" is used, it shall be understood as an Act, or Warrant, or Interlocutor of any one of the Divisions of the Inner-House; and the word "Order," as an Interlocutor of the Lord Ordinary; and the word "Enactments," as equivalent to "Regulations;" and the word "Regulations," as Enactments; the word "Pursuer," to include the Complainer, Petitioner, or Suspender; the word "Respondent," to include Defender or Charger; and in general whenever any word or words are used importing the singular number or the masculine gender, the same shall be understood to include the plural

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plural number or the feminine gender, and several matters of the same kind as well as one matter, and several persons as well as one person, and bodies corporate as well as individuals, and persons acting in any legal capacity for others, unless it has been otherwise specially expressed or provided, or there is something in the subject or context repugnant to such construction.

LIII. Act may be repealed altered or amended this Session.

And be it Enacted, That this Act may be repealed, altered or amended during the present Session of Parliament.

SCHEDULES referred to in this ACT.

SCHEDULE (A.)

FORMS OF WRITS OR PETITIONS.

THE Writs or Summonses shall specify the Induciæ legales according to the nature of the Action, and residence of the Respondent, and shall direct the Messenger or other Executor thereof to cite the Respondent to appear in Court on the last day of the Induciæ applicable to the case; and the Forms subjoined shall apply to all Actions, whether ordinary, extraordinary or summary, including Jury, Maritime and Consistorial Causes, (except certain Applications under the Bankrupt Act) in the Court of Session and the Sheriff and Local Courts, as nearly as circumstances will permit.

No. I.—FORM of WRIT or SUMMONS in an Ordinary or Summary Action before the Court of Session.

WILLIAM THE FOURTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To Messengers at Arms, or Agents in the Court of Session in Scotland, Our Sheriffs in that part, specially constituted, Greeting: WHEREAS, although our Lovite A. [Name and Designation,] Pursuer, has often desired and required B. [Name and Designation, Respondent, to make payment to him of the principal sum and interest, after specified, in respect of the facts separately stated or to be stated in the Declaration, or altered or revised Declaration, and in the Note of Pleas for the Pursuer, relative to this Writ; NEVERTHELESS the Respondent refuses, at least delays, so to do: THEREFORE the Respondent should be DECERNED and ORDAINED, by Decree of the Lords of our Council and Session, to make payment to the Pursuer of the sum of One hundred Pounds, being the amount of an Account herewith produced, with the legal interest thereof from the day of being a year after the date of the last article in the said account, and in time coming during the not payment, together with Twenty Pounds, (including Three Shillings and Four-pence for the Pursuer's Agent writing a letter, requesting payment previous to raising this Writ,) or such other sum, less or more, as the said Lords shall modify, as the expenses of the Process, and of extracting the Decree to follow hereon; and for compelling the Respondent to implement the said Decree, Our said Lords should also grant Warrant of Charge, Arrestment, Inhibition, Poinding, Open-Doors, and Imprisonment, to be included in common form in the extract of the said Decree; and the Respondent should also be decerned and ordained by Decree foresaid, to pay to the Pursuer the expenses of all manner of legal execution on the said Decree, (except of Arrestment and Inhibition,) as the same shall be taxed by one of the Auditors of Court, and the amount certified by him on the back of the Extract of said Decree, conform to the said Declaration, laws and daily practice of Scotland used and observed in the like cases, as is alleged: OUR WILL IS HEREFORE, and WE CHARGE you, That on sight hereof ye pass at the instance of the Pursuer, and in Our name and authority lawfully SUMMON, WARN and CHARGE the said Respondent, personally, or at his dwelling-place, or place of business, if within Scotland, by delivering to or leaving for him a copy hereof, partly written and partly printed, and a written copy of the relative Declaration, Inventory of Writings produced therewith, (if any,) and Note of Writings called for by the Pursuer from the Respondent, and of Interrogatories for the Pursuer (if any) to be answered by the Respondent, on pain of being found liable in the expenses of

of diligence, for recovering the said Writings if in his custody or control, and not produced by him, and of appearing personally in Court, to be examined on oath as a Haver, and judicially examined as a party, and found liable in the expenses of a proof of the facts, by witnesses, or his examination, writ, or oath, if within his knowledge, or if furth of Scotland, by delivering for him a copy hereof into the Box placed in the Lobby of the Register House, Edinburgh, kept by the Junior appointed Depute Clerk of Session, in terms of the Statute thereanent; [and if the Respondent be a Minor, say:—and also for the Tutors and Curators of the Respondent, if he any have, for his interest, by a Notice inserted in the Newspaper (or a Newspaper reputed to be the most widely circulated in the Town, District or Neighbourhood of the Market Cross of the Head Burgh of the Shire in which the Minor has his lands and goods), if he be within Scotland, and if he be furth thereof, by delivery for them of a copy hereof into the said Box in the Lobby of the Register House, Edinburgh, kept by the said Junior Depute-Clerk of Session,] and citing him (or them) to compear personally, or by his (or their) Agent, before the Lords of Our Council and Session, at Edinburgh, or where they may happen to be for the time, the eighth day [in the ordinary case, or thirtieth day if in the Hebrides, Shetland or Orkney, or furth of Scotland] next after the date of your citation, in the hour of cause, with continuation of days, to answer at the instance of the Pursuer in the matter separately declared upon; (that is to say) to see the productions lodged by the Pursuer; and, within Thirteen Days thereafter, to answer the said Declaration and produce the Writings called for, and answer the said Interrogatories, and lodge the said Answers to the Declaration with the Writings, and Answers to the Interrogatories, and to hear and see the premises verified and proved, and Decree pronounced against the Respondent by Our said Lords in terms of the conclusions above written; or else to allege a reasonable cause in the contrary, with certification, as effeirs *. According to Justice; As ye will answer to us thereupon. Which to do, We commit to you, and each of you, full power by these presents, delivering them again by you to the bearer duly executed and indorsed. Given at Edinburgh, under the hands of me, one of the Agents of the Court of Session, in terms of the Statute, on the day of in the year 1835.

(Signed) A.,

adding after his signature:

Prepared by me, and written, in so far as not printed, on this and the preceding pages, by K. L., my Clerk or Apprentice.)

Edinburgh, 14th November 1835.

Registered in the Minute Book, Lord A. B. Ordinary; A. 1. Clerk to the Process,

(Signed by the Depute Clerk to the Process, or for him by his Assistant.)

Note.—The formal part of the Writ to be printed; and the blanks to be filled up in writing; and such part of the printed Form as may not apply to be delete, and be marked opposite with the initials of the Agent; and the Junior Depute Clerk of Session, or his Assistant, and the Clerk to the Process, or his Assistant, shall mark and register the Writ, &c., as prescribed in the Statute; and the Respondent shall lodge in process with his Answers the Copy Writ or Summons, or Petition, &c. with a Mandate by him to his Agent to conduct his opposition to the Process from the commencement to its close unless recalled.]

[* If it be meant to include Warrants to arrest and inhibit, take in here the Form of the Warrants as follows:——ATTOUR, That on sight hereof, ye, the said Messengers at Arms, pass, and in Our name and authority lawfully fence and arrest all and sundry the Respondent's whole Moveable Property, wherever situated on Land or Water, or in whose hands soever the same may be, and take the sails, rudders and anchors from all ships and boats (the same being always in safe harbour), all to remain under sure fence and arrestment at the Pursuer's instance, acted in the Books of Our Council and Session, to the extent of the sums of Principal and Interest, as at the date of these presents, exclusive of Interest and expenses of Process subsequent to the said date, that the same shall be made forthcoming;

coming; and also that ye, the said Messengers at Arms, inhibit and discharge the said Respondent, that he in no ways sell, convey, dispone, resign, renounce, dilapidate, nor put away any of his Lands, Heritages, Rights or Possessions, pertaining and belonging to him; nor make any public or private conveyances or renunciations thereof, to any Person or Persons, nor contract nor take on debts, nor grant Bonds, or other rights or securities for the same; nor do any other act or deed, directly or indirectly, by which the right to the said Lands and others pertaining to him may be any ways evicted or adjudged from him, or be denuded thereof, in defraud and to the hurt and prejudice of the Pursuer, relative to the fulfilling to the Pursuer of the Decree to be obtained at his instance in the said depending Process, and payment making to him of the whole sums of Principal and Interest, as at the date of these presents as aforesaid to be therein contained: And We hereby inhibit and discharge all and sundry Our lieges and others whom it effeirs, that they or none of them shall presume nor take upon hand, under any colour or pretext, to buy, block, or receive in security, gift, or otherwise, from the said Respondent, any of his Lands, Heritages, Annual Rents, Life-rents, or others foresaid, nor receive from him any titles, rights or securities thereof, nor lend him any sums of money, nor receive any Bond, or other right or security therefor, nor do any other act or deed, directly or indirectly, in defraud and to the hurt or prejudice of the Pursuer, as said is, certifying those who do in the contrary, that all such conveyances, or other rights shall be null and of no force, strength or effect, with all that has followed or may follow thereupon, and shall make no faith in judgment or outwith the same in time coming; and that he cause register an abbreviate of these Presents and relative Declaration and Executions to follow hereupon, in the manner prescribed by Act of Parliament, within Forty Days, in the general Register of Inhibitions.

No. II.—FORM of WRIT in an Action of Reduction of the Titles of a Ship, or other Document.

WILLIAM, &c. Our Will is, and We charge you, that on sight hereof ye pass at the instance of Our Lovite A. Pursuer, and in Our name and authority lawfully summon B. Respondent, personally, or at his dwelling-place, or place of business, if within Scotland, by delivering to or leaving for him a copy hereof, and of the relative Declaration, Inventory of Writings (if any) produced therewith, and note of Writings called for by the Pursuer from the Respondent, and of Interrogatories for the Pursuer (if any) to be answered by the Respondent on pain of being found liable in the expenses of diligence for recovering the said Writings if in his custody or under his control, and not produced by him, and of appearing personally in Court to be examined as a Haver, and on oath as a Haver, and judicially examined as a party, and of the expenses of a proof of the facts, by witnesses, or by his examination, writ or oath, if within his knowledge, (and if furth of Scotland, (as in No. I.) in terms of the Statute thereanent), and citing him to compear personally, or by his Agent, before the Lords of Council and Session, at Edinburgh, or where they shall happen to be for the time, viz. if within Scotland, the eighth day [or thirtieth day if in the Hebrides, Shetland or Orkney, or furth of the Kingdom, (as in No. I.)] next after your citation, in the hour of cause, to answer, at the instance of the Pursuer, in the matter declared upon; that is to say, the said Respondent to bring with him, exhibit and produce, before Our said Lords, a pretended Vendition of the ship Thomas, of the port of London, bearing date the day of granted by the Pursuer to the said Respondent personally, or by an Agent for him, there to lodge Answers to the said Declaration, and produce the Writings called for, and also lodge separately Answers to the said Interrogatories, besides the said Writings called for in the Note, together with a Certificate of the Registry of the said Ship, and pretended Indorsation of transfer thereon, dated the day of or of whatever other dates the said pretended documents may be, to be seen and considered by Our said Lords, and to hear and see the said Vendition and other documents specially called for and narrated in the Writ, with all that has followed, or is competent to follow thereupon, reduced, annulled, decerned, and declared by decree of Our said Lords

Lords to have been from the beginning, to be now and in all times coming null and void, and of no force or effect in judgment, or outwith the same in time coming, and the Pursuer reponed and restored against the same in respect of the facts stated; or to be stated in the said Declaration, or altered or revised Declaration and Pleas of Law; and the Respondent should also be decerned and ordained, by Decree foresaid, to make payment to the Pursuer of the sum of Fifty Pounds (including Three Shillings and Four-pence for the Pursuer's Agent writing a Letter requesting payment previous to raising this Writ), or such other sum, less or more, as shall be modified as the expenses of Process and of Extract; and for compelling the Respondent to implement the said Decree, Our said Lords should also grant Warrant of Charge, Arrestment, Inhibition, Poinding, Open-Doors and Imprisonment, to be included in common form, in the Extract of the said Decree; and the Respondent should also be decerned and ordained by Decree foresaid, to pay to the Pursuer the expenses of all manner of legal execution (except of Arrestment and Inhibition), as the same shall be taxed by one of the Auditors of Court, and certified by him on the back of the Extract of the said Decree: ATTOUR [Here take in Warrant of Arrestment or Inhibition, if necessary.]

(See Note on No. I., page 131, which applies equally to the above Form.)

No. III.—FORM of WRIT of SUSPENSION of an Extracted Decree of the Local Court upon a Closed Record in the Local Court, where no Declaration is necessary, except a Note of additional Pleas, or a Supplementary Declaration, where the Record is improperly completed.

WILLIAM, &c. Our Will is, and We charge you, that on sight hereof, ye pass at the instance of A. [Name and Designation], Suspender, and in Our name and authority lawfully summon, warn and charge B. [Name and Designation,] Respondent, personally, or by delivering to and leaving for the said Respondent, at his dwelling-place, or place of business, a copy hereof [In the case of an extracted Decree, say,—and a copy of Additional Note of Pleas; or in the case of the Record being improperly completed, say,—and a copy of the Supplementary Declaration] and citing him to compear personally, or by his Agent, before Our Lords of Council and Session, at Edinburgh, or where they may happen to be for the time, the eighth day [or thirtieth day if in the Hebrides, Orkney or Shetland, or furth of the kingdom as in No. I.] next after the date of your citation, in the hour of cause, with continuation of days in a Process of Suspension raised at the instance of the Complainer against the Respondent, the Respondent bringing with him the Local Court Process, whole steps and procedure had therein, and grounds and warrants thereof [This addition to be delete where the Local Court Process is already in the hands of the Suspender, or his Agent,] to be seen and considered by the said Lords, and to see the same suspended, and that for the reasons and causes to be proponed at discussing hereof: According to Justice, as ye will answer to Us thereupon. Given, [&c. as above.]

(See Note on No. I., page 131, which is also applicable to the above Form.)

No. IV.—FORM of WRIT of SUSPENSION of a Charge, or threatened Charge, in virtue of Registered Documents, where a Declaration and Caution or Juratory Caution, or Consignation to a limited amount, is necessary.

WILLIAM, &c. Our Will is herefore, and we charge you, that on sight hereof ye pass at the instance of A. [Name and Designation] Suspender, and in Our name and authority lawfully summon, warn and charge B. [Name and Designation] Charger [or Respondent,] personally, by delivering to or leaving for him at his dwelling-place or place of business, a copy hereof, and of the relative Declaration and Note of Pleas, Inventory of Writings produced therewith (if any), and Note of Writings called for by the Suspender from the Respondent, and of Interrogatories for the Suspender (if any)

to be answered by the Respondent, on pain of being found liable in the expenses of diligence for recovering the said Writings, if in his custody or control, and not produced by him, and of appearing personally in Court, to be examined on oath as a Haver, and judicially examined as a party, and found liable in the expenses of a proof of the facts, by Witnesses or his examination, writ, or oath, if within his knowledge, and citing him to compear personally or by an Agent before the Lords of Council and Session, or where they may happen to be for the time, the eighth day in the ordinary case [or thirtieth day if in the Hebrides, Shetland or Orkney, or furth of the kingdom, as in No. I.] next after the date of your Citation, in the hour of Cause, in a Suspension at the instance of the Complainer against the Respondent, with continuation of days, the Respondent bringing with him the Bill [or other Documents charged on, as the case may be] and Charge thereon, and the grounds and warrants thereof (or of the threatened charge) on which the same proceeded, to be seen and considered by Our said Lords, and to hear and see the same, whole effect and execution thereof, and of the charge (or threatened charge), and all that has followed or is competent to follow thereon, simpliciter, suspended, in respect of the facts stated, or to be stated, in the said Declaration, or altered or revised Declaration, and the Pleas of Law, and for other reasons to be proponed at discussing hereof; discharging hereby all Messengers at Arms, or other officers of the law, from putting the said Charge to further execution in the meantime, till the verity be known. According to justice, &c.

(See Note on No. I., page 131, which is applicable to the above Form. The Suspender, in a Note to his Declaration, to state whether he offers Caution, or Juratory Caution or Consignation, or presents the Writ without Caution.)

No. V.—FORM of SUSPENSION and INTERDICT, originating in the Court of Session, where a Declaration is necessary

WILLIAM, &c. Our Will is herefore, &c. [as in No. IV.] the Respondent bringing with him any rights or titles, under authority of which he pretends to claim a right to commit the acts stated in the Declaration; to be seen and considered by Our said Lords, and to hear and see the Charge (or threatened Charge, or the operations complained of), simpliciter suspended, and himself interdicted, prohibited and discharged from proceeding further with the operations stated in the Declaration: ATTOUR We and Our said Lords of Council and Session in the meantime, until the verity and final issue be known, have suspended and interdicted, and hereby interdict, the Respondent from continuing the Acts mentioned in the Declaration and all others [if caution be offered add,—provided that the Suspender find sufficient caution acted in the Books of Council and Session, to make payment to the Respondent, or shall make consignation of the sum of Fifty Pounds towards the expenses of process, in the event of Our said Lords finding the Suspender liable therein, or in such other sum as shall be modified, and of all manner of legal execution in respect of wrongous suspending and interdicting as aforesaid. According to Justice, &c. as in No. I.]

(See Note on No. IV., above.)

No. VI.—FORM of WRIT of SUSPENSION and LIBERATION, where a Declaration is necessary.

WILLIAM, &c. Our Will is herefore, &c. [as in No. IV.] the Respondent bringing with him the whole grounds and warrants of charge and imprisonment, to be seen and considered by Our said Lords, and to hear and see the said grounds and warrant of imprisonment, whole effect and execution thereof, and all that has followed or is competent to follow on the same, simpliciter suspended, and Warrant of Liberation granted, in respect of the facts stated in the Declaration, or to be stated in the altered or revised

revised Declaration, if necessary, and the Pleas in Law, and for other reasons to be proposed at discussing hereof, unless cause be shown to the contrary, [as in No. I.]

(See Note on No. IV., above.)

No. VII.—FORM of PETITION in a Summary Application to the Court of Session.

Unto the Right Honourable the Lords of Council and Session,

The PETITION of A. B. [Name and Designation of Petitioner,]

Humbly sheweth,

THAT with reference to the facts stated in the Declaration relative hereto, or to be stated in the altered or revised Declaration if necessary, and the Note of Pleas in Law, in the present application, at the instance of the Petitioner, against B. C. [Name and Designation of Respondent.]

May it, therefore, please your Lordships to FIND [here take in the findings deduced according to the circumstances stated in the Declaration, and to find expenses due, as in No. I.] And for compelling the Respondent to implement the Decree to follow hereon, grant Warrant of Charge, Arrestment, Inhibition, Poinding, Open Doors and Imprisonment, and to decern for the Expenses of all manner of legal Execution on the said Decree (except Inhibition or Arrestment) as shall be taxed, and the amount thereof certified by the Auditor of Court on the back of the Extract of said Decree, to be included in common form in the Extract of said Decree; and in the meantime, that Arrestment and Inhibition on the dependence hereof may be executed in terms of Law; And on considering the Execution of Service hereof, with or without Answers, pronounce Decree as above craved, and decern accordingly, conform to the said Declaration, and the Laws and daily practice of Scotland, used and observed in the like cases; And on sight hereof, that Agents of Court, Messengers-at-Arms, or Officers of Court, shall pass at the instance of the Petitioner, and in the name and authority of His Majesty, lawfully summon, warn and charge the Respondent personally, by delivering to or leaving for him at his dwelling-place, or place of business, if within Scotland, a copy hereof, and relative Declaration, and Inventory of Writings (if any) produced herewith, and Note of Writings called for by the petitioner from the Respondent, and of Interrogatories for the Petitioner (if any) to be answered by the Respondent, [or if furth of Scotland, by edictal citation, as in the above Form, No. I.] on pain of being found liable in the expenses of diligence for recovering the said Writings, if in his custody or control, and not produced by him, and of appearing personally in Court to be examined as a Haver, and judicially examined as a Party, and also found liable in the expenses of a proof of the facts by Witnesses, or his examination, writ or oath, if within his knowledge, in terms of the Statute thereanent, and citing him to compear personally, or by an Agent, before your Lordships at Edinburgh, or where you may happen to be for the time, the eighth day [in the ordinary case, or the thirtieth day if in the Hebrides, Shetland or Orkney, or furth of Scotland,] next after the date of citation, in the hour of cause, with continuation of days, to answer at the instance of the Petitioner, in the matter declared on, and hear and see the premises verified and proved, and decree pronounced against the Respondent by your Lordships, in terms of this prayer; or else to allege a reasonable cause to the contrary; with certification as effeirs. According to Justice, &c.

(Signed by the Petitioner or his Agent A.,
adding after his signature:
Prepared by the Petitioner, or by his
Agent. Written on this, and the
preceding pages, by K. L., my clerk.)
Edinburgh, 14 November 1835.

Registered in the Minute-Book. Lord B., Ordinary.—A. 1, Clerk to the Process.

(Signed by the Depute Clerk to the Process, or for him by his Assistant.)

No. VIII.—FORM of a PETITION in a Process of Cessio Bonorum.

Unto the Right Honourable the Lords of Council and Session,

The PETITION of A. B. [Name and Designation,]

Humbly sheweth,

THAT the Petitioner has received, at the instance of B. C., [Name and Designation] Respondent, a charge to pay him the sum of Forty Pounds sterling, together with interest thereon from the day of till payment, and Ten Pounds as the expenses of Process, and Ten Shillings as the dues of extract, and for the expenses of all manner of execution, within a certain short space, on pain of imprisonment, in virtue of a Decree of the Lords of Council and Session, dated Sixteenth June One thousand eight hundred and Thirty-five, at the said B. C.'s instance against the Petitioner.

That the Petitioner is insolvent or bankrupt, and utterly unable to pay the said debt, but is willing to convey the whole of his estate and effects of every description to his creditors. [If the Petitioner intends to offer a composition, say,—Or to make payment to them of the Sum of per pound on the amount of each of their debts, payable by instalments at and months from the date of the approval of such offer, with caution for the regular payment of the said composition;] and the Petitioner herewith produces a Schedule of his affairs.

May it, therefore, please your Lordships, that on service and intimation of this Petition in terms of Law, and on considering the execution of the service and intimation thereof against the said B. C., and the whole of my other Creditors, the Schedule of the Petitioner's affairs, and the Minutes of the Meeting of his Creditors to be held, with or without Answers hereto on the part of his Creditors, and on the Petitioner complying with the usual requisites of the statute thereanent [where a Composition is offered, add,—and on obtaining the consent of Two-thirds of his Creditors assembled at the said Meeting of his Creditors, to approve of the said offer of Composition, and discharge him of all his debts prior to the date of these presents, except as to payment of the said Composition,] to grant the Petitioner the benefit of the process of Cessio Bonorum in common form, and declare the Petitioner free from all debts resting and owing by him to his said whole Creditors at and prior to this date; and on sight hereof, that Agents of the Court of Session or Messengers-at-Arms shall pass at the instance of the Petitioner, and in the name and authority of His Majesty, lawfully summon, warn and charge the said Respondent personally, by delivering to or leaving for him at his dwelling-place or place of business, if within Scotland, and if furth of Scotland, by delivering to his mandatory, and also intimating to [Names and Designations of all the other Creditors of the Petitioner,] by sending, by post, properly addressed, a printed copy hereof and of the Notice calling a Meeting of the Petitioner's Creditors, and citing him to compear personally, or by an Agent, before your Lordships at Edinburgh, or where you may happen to be for the time, the eighth day next after the date of citation or intimation, in the hour of cause, with continuation of days, to answer at the instance of the Petitioner in the matter of this Petition; and to see in the Clerk's hands the said Schedule of my affairs, and my books and papers referred to in such Schedule, and to hear and see the premises verified and proved, and Decree pronounced by your Lordships, against my whole Creditors, in terms of this prayer; or else to allege a reasonable cause to the contrary, with certification, &c. According to Justice, &c.

(Signed as No. VII.)

No. IX.

No. IX.—FORM of PETITION in a Process of Ranking and Sale.

Unto the Right Honourable the Lords of Council and Session,

The PETITION of A. B. [Name and Designation of the Petitioner,]

Humbly sheweth,

THAT the Petitioner is owing to his Creditors various sums of money, which he finds he is unable to pay; but being Proprietor of the lands of [here mention generally the the name or names of the lands,] he is desirous of having the said lands sold under the authority of your Lordships, and the rents and prices thereof divided amongst his Creditors, according to their respective rights and diligences.

May it, therefore, please your Lordships, that on this Petition being served in terms of Law, on [names and designations] Creditors who hold real Securities, or have obtained Decrees of Adjudication against the said lands and others, [and where the Petition is raised by a Creditor without the consent of the Proprietor as hereinafter mentioned, add,—and also served on the Petitioner personally, or a copy left for him at his dwelling-place or place of business, or edictally if furth of Scotland, as in No. I.] together with a Copy of the relative Declaration, Inventory of Writings produced herewith, and Note of Writings called for by B. C., the Creditor who has raised this Petition, and of Interrogatories (if any) to be answered by the Petitioner, on pain of being found liable in the expenses of diligence for recovering the said Writings, if in his custody or control, and not produced by him; and of being obliged to appear personally in Court, to be examined on oath as a Haver, and judicially examined as a party, and found liable in the expenses of a proof of the facts by Witnesses, or his examination, writ or oath, if within his knowledge; and on a notice of this Writ and Process having been raised, and calling on all the Creditors of the Petitioner to appear and lodge their Claims and Affidavits therein, being published once in the Minute-Book of the Court of Session, and on the Walls of the Parliament House, and in the Edinburgh Gazette, and in Newspaper, published in the town and neighbourhood where the lands lie, in order that due intimation shall be given to the said Creditors, and the Tutors and Curators of such of the said Creditors as are minors, if they any have, and all others, for their interest; that is to say, if such Creditors and their Tutors and Curators [or the said A. B. where the Process is raised by a Creditor as aforesaid] be within Scotland, on the eighth day next after the date of Citation, Intimation or Notice, and if furth thereof, by Edictal Citation [as in the Form No. I.] and by citing them to compear personally, or by an Agent, before your Lordships at Edinburgh, or where it shall happen you then to be for the time, with continuation of days, to answer at the instance of the Pursuer; the said Creditors, and all others, be ordered to produce their respective claims of debt, and diligences, and whole vouchers, and warrants thereof, against the said Pursuer and his heritable property, to the effect of such property being sold, and the price applied in payment of such claims of debt as shall be ascertained to be well-founded, and Decrees of Ranking and Sale and others pronounced accordingly, by your Lordships, conform to the Statute; or else to allege a reasonable cause to the contrary, with certification to those Creditors and others, without exception of Minors, who shall not compear, and produce, and insist on their respective rights, and claims, and diligences, and depone on the verity thereof, or who shall not be ranked on the proceeds of the Pursuer's heritable property, that they shall never thereafter be heard to quarrel or impugn the Roup and Sale, and other proceedings to take place in the course of the process to follow hereon, or come in the contrary thereof; and that all such rights, claims and diligences, of what kind or nature soever, be reduced, decerned, and declared by your Lordships to have been from the beginning, and to be in all time coming, null and void, and of no avail, force, strength or effect in judgment, or outwith the same; and that the Purchaser or Purchasers of the said heritable property be declared by your Lordships to have good and undoubted right and title to the same, and to possess

the same, and to uplift the rents, mails and duties thereof; and that the said Pursuer and his Creditors, and all others aforesaid, have no right nor title thereto; and to hear and see the premises verified and proved, and Decree pronounced accordingly in terms of this prayer; or else a reasonable cause to the contrary; with certification as effeirs. According to justice, &c.

(Signed as on No. VII.)

(See Note No. I., page 131, which is also applicable to the above Form.)

Note.—If the Process of Ranking and Sale be raised by a Creditor, who holds a real security, or a Decree of Adjudication, or a personal Creditor whose debt is constituted by a Bill, Bond or Extracted Decree to the extent of One hundred Pounds, the Petition shall be at the instance of the Proprietor only, as nominal Pursuer, although raised by the Creditor without his consent.

No. X.—FORM of WRIT or SUMMONS in an ordinary or extraordinary Action, concluding for a Debt above Ten Pounds, before the SHERIFF or other LOCAL COURT in SCOTLAND (except Complaints under the Small Debt Acts.)

A. B. Esquire, Sheriff of the Sheriffdom of A. [or, D. E. F. Esquires, Magistrates of the Royal Burgh or Burgh of Regality of B., or Burgh of C., which contributes to the return of a Member of Parliament, or G. and H. Esquires, His Majesty's Justices of Peace], To Agents, Officers of Court, and Messengers at Arms, conjunctly and severally. WHEREAS, although A. [name and designation,] Pursuer, has often desired and required B. [name and designation,] Respondent, to make payment to him of the principal sum and interest thereof, as after specified, in respect of the facts stated or to be stated in the Declaration, or altered or revised Declaration, if necessary, in relation hereto, and of the Pleas in Law; NEVERTHELESS, the Respondent refuses or at least delays so to do: THEREFORE the Respondent should be DECERNED and ORDAINED by my [or our] decree to make payment to the Pursuer of the sum of Twenty-five Pounds, being the amount of an account herewith produced, with the legal interest thereof from the day of ; and in time coming during the not payment, together with Five Pounds (including Two shillings and Sixpence for the Pursuer's Agent writing a letter requesting payment previous to raising the Action,) or such other sum, less or more, as I [or we] shall modify as the expenses of the Process and the fees of extracting the Decree to follow hereon; and for compelling the Respondent to implement my [or our] said Decree, I [or we] should grant warrant to charge, arrest, inhibit,* poind, open doors and imprison, to be included in common form in the Extract of my [or our] said Decree; and the Respondent should further be decerned and ordained by my [or our] Decree to pay the Pursuer the expense of all manner of legal execution, (except of Arrestment and Inhibition,) as shall be taxed, and the amount thereof, including the Auditor's Fee, certified by the Auditor of Court on the back of the Extract of said Decree, conform to the said Declaration, and the laws and daily practice of Scotland, used and observed in the like cases, as is alleged: Therefore I [or we] command you, that on sight hereof ye pass, at the instance of the Pursuer, and lawfully summon, warn and charge the Respondent personally, by delivering to or leaving for him at his dwelling-place, or place of business, if within my [or our] jurisdiction, or if furth thereof, and within Scotland, by virtue of a Warrant of Concurrence to be granted by the Sheriff of the jurisdiction within which the Respondent resides, or Warrant of Supplement in terms of law, a copy hereof, partly written and partly printed, and a written copy of the Declaration and Inventory of Writings therewith produced, and Note of Writings called for by the Pursuer from the Respondent, and of Interrogatories for the Pursuer to be answered by the Respondent on pain of being found liable by me [or us] in the expenses of a diligence for recovery of said Writings, if in the custody or under the control

* In the case of a Writ or Summons before the Justice of Peace Court, the word "inhibit" to be struck out as incompetent.

control of the Respondent and not produced by him, and of a proof of the facts by witnesses, or his examination, writ or oath, if within his knowledge, and of further being obliged to appear in Court to be examined on oath as a Haver as to the said Writings, and judicially examined as a party with regard to the said facts, personally, or if furth of Scotland, edictally by virtue of a Warrant of Supplement, in terms of law, and by citing him to compear personally, or by an Agent, before me or my Substitute [or us] at the ordinary Court Place at E. [as the case may be], upon the sixth day in the ordinary case, [or in an Action of Ranking and Sale, ninety days, or, if furth of Scotland, thirty days, or in maritime or other urgent or summary Causes, the Inducie may be varied from Forty-eight Hours to Four Days, according to the distance of the Respondent's residence from the Town where the Court is held, as the case may require] next after the date of your Citation, in the hour of Cause, with continuation of days, to answer the Pursuer in the matter declared on; (that is to say,) to see the productions lodged by the Pursuer, and to answer the said Declaration, and produce the Writings called for, and separately answer the said Interrogatories, and lodge the said answers to the Declaration, and produce therewith all writings on which he intends to found, and also lodge answers to the said Interrogatories within Six Days after the said date of appearance, and hear and see the Premises verified and proved, and my [or our] Judgment and Decree pronounced against the Respondent in terms of the conclusions above written, or else to allege on reasonable cause to the contrary, with certification as effeirs.* According to Justice: As ye will answer to me [or us] thereupon. Which to do, We commit to you full power, by these Presents, delivering them by you duly executed and indorsed to the Bearer again. Given under the hands of me, one of the Agents of Court, in terms of the Statute thereanent, at the day of in the year One thousand eight hundred and Thirty-five.

[Signed A.]
adding after his signature:
Prepared by me, and written in so far as not printed on this and the pages by K. L., my Clerk.]

Note.—The formal part of the Writ to be written or printed, and the blanks to be filled up in writing; and such part of the printed Form as may not apply to be delete, and be marked opposite with the initials of the Agent, and the Agent to indorse on the back of the Writ, and Declaration and Copies to be served, his own name as Agent, and when an Edinburgh Agent is also employed, his name and address, and also on the schedules of Arrestment or Inhibition; and the Clerk of the Local Court shall write on the Writ the date of registration, and the Respondent shall lodge in Process, with his answers, the copy Writ and Declaration, &c., with a Mandate to his Agent to conduct his opposition to the Process from the commencement to its close, unless recalled.

Glasgow, 17th December 1835.

Registered in the Minute Book. (signed) A. B., Sheriff Clerk.

(* If meant to contain a Warrant to Arrest on dependence, add:—)

ATTOUR, That in the mean time ye, Messengers at Arms, or the said Officers of Court, lawfully fence and arrest, within my [or our] Jurisdiction, in whose hands soever the same may be, (and take the Sails, Rudders and Anchors from all Ships and Boats, the same being always in a safe Harbour†), all to remain under sure fence and arrestment at the Pursuer's instance, aye and until sufficient Caution and Surety be found acted in my [or our] Court Books, that the same shall be made forthcoming to the Pursuer as accords of Law.

[If

† The words in parentheses relating to Maritime subjects, not to be included in a Writ or Summons raised before the Burgh Courts, or Justices of Peace.

[If it be meant to add Inhibition, (copy Form from No. 1. of this Schedule,) or a special Interdict, insert the Interdict in the words of the Interlocutor of the Sheriff or Magistrate granting it, previously written on the Declaration.]

No. XI.—FORM of WARRANT of CONCURRENCE.

THE Sheriff of hereby interpone his authority and concurrence to the within Writ, to cite on an Induciæ of Six Days from the date of Citation [or, charge, arrest, and inhibit, or (where the days of charge have expired), to poind or open doors, or imprison to the effect the said Original Writ may be carried into full force and effect within the said Sheriffdom

Given and subscribed by me, the said Sheriff, in terms of the Statute, at the day of in the year One thousand eight hundred and Thirty-five.

[Signed by the Sheriff, and on the margin by an Agent.]

Note.—The necessary Warrant to cite may also, in the option of Parties, be obtained by Writ of Supplement, or Warrants to charge, arrest, poind, open doors, or imprison, under the authority of the Court of Session; which Writ or Warrants shall be signed by an Agent of the Court of Session.

No. XII.—FORM of PETITION to the SHERIFF, BURGH, or other LOCAL COURT.

Unto the Right Honourable the Sheriff of the County of A., [or other Court.]

The PETITION of A. B., [Name and Designation.]

Humbly sheweth,

THAT with reference to the facts stated in the Declaration for the Petitioner relative hereto, or to be stated in the altered or revised Declaration, if necessary, and the Note of Pleas for the Petitioner against C. B. [name and designation] Respondent,

May it, therefore, please your Lordship [or Honors] to grant, in the meantime, an Interdict prohibiting and discharging the Respondent from proceeding further in the works and encroachments mentioned in the said Declaration, until further orders of Court, and on service, in terms of law, of a Copy of these presents, and of the said Declaration, Inventory of Writings produced therewith, and Note, for the Petitioner, of writings which the Petitioner requires the Respondent to produce, and of Interrogatories which the Petitioner calls on the Respondent to admit or negative, on pain of being compelled to appear personally in Court, and be examined as a Haver, or judicially examined as a party, and being found liable in expenses, in case the Petitioner shall afterwards recover the writings from him by a diligence, or shall prove the facts denied by him, by Witnesses, or his Examination, Writ, or Oath, and on considering the Execution of Service, with or without answers, for the Respondent, to find that the Respondent has encroached on the Petitioner's property Eight Feet or thereby; and to decern and ordain him instantly to remove the said encroachment; to put the Pursuer's ground in the same state in which it was before said encroachment; and to prohibit and discharge him from exercising any acts of property thereon in time coming; and also to find the Respondent liable to the Pursuer in Ten Pounds (including Two Shillings and Sixpence for the Pursuer's Agent writing a letter to the Respondent to desist from said encroachment, previous to presenting this Petition), or such other sum, less or more, as your Lordship [or Honors] may modify, as the Expenses of Process and extracting the Decree, to follow hereon; and for compelling the Respondent, to implement the said Decree, to grant Warrants of Arrestment, Inhibition, Poinding, Open Doors, and

and Imprisonment, and to decern for the expenses of all manner of legal Execution (except of Inhibition or Arrestment) as shall be taxed, and the amount thereof, including the Auditor's Fee, certified by the Auditor of Court on the back of the Extract of the said Decree, to be included, in common form, in the Extract of the said Decree, according to the Law and daily practice of Scotland, used and observed in the like cases, in all points. According to Justice, &c.

(Signed by the Party or his Agent, as Number VII.)

Glasgow, 17th December 1835.
Registered in the Minute Book. (signed) A. B., Sheriff Clerk.

No. XIII.—FORM of COMPLAINT and WARRANT of SEQUESTRATION at the Instance of a Landlord against a Tenant for Rent, not exceeding Ten Pounds sterling.

A. B., Esquire, Sheriff of the Sheriffdom of A., To
Agents, Messengers at Arms, and Officers of Court.

WHEREAS it is complained to me by C. D. [design him] Pursuer, that E. F. [design him] Respondent, is owing the Pursuer the sum of Five Pounds, being the Rent of [describe the Premises,] possessed by him from the Term of Whitsunday 1835, to the Term of Whitsunday 1836, and payable, half-yearly, at the said Terms of Martinmas and Whitsunday, and which Rent the Defender refuses or delays to pay; and the Defender should be decerned and ordained to make payment thereof to the Complainer, with Expenses of Process, and of the Warrants of Sequestration and Sale, as the same shall be taxed by the Auditor of Court; and Warrant should be granted to sequestrate, and, on the return of the Execution of Sequestration, to sell the furniture and effects, and others in the said premises, within Six Days thereafter; THEREFORE, it is my will that ye lawfully summon the Defender to compear before me, or my substitute, within the Court House at A., within Three Days after the date of service, viz. upon the day of at of the clock, forenoon, to answer at the instance of the Pursuer in the said matter; with certification, in case of failure, of being held as confessed, and Warrant of Sequestration and Sale granted as craved: ATTOUR that ye inventory, sequestrate, and, if need be, secure the furniture, effects and others in the said premises, until the further orders of Court; and that ye cite Witnesses and Havers for both Parties to compear at the said place, date and hour, to give evidence in the said matter. Given under the hand of me, one of the Agents before the Supreme Court, [or Sheriff Court,] at the day of

(Signed by an Agent of the Supreme or Local Court, as No. VII.)

Edinburgh, 17th December 1835.
Registered in the Minute Book. (signed) A. B., Sheriff Clerk.

No. XIV.—FORM of SIST and SUSPENSION of DILIGENCE before the Sheriff Court.

A. B. Esquire, Sheriff of the Sheriffdom of A, To
Agents, Messengers at Arms, or Officers of Court.

WHEREAS it is complained to me by C. D., [design him,] Suspender, that he has been charged in virtue of [describe the Diligence,] to make payment to E. F., [design him] Charger, of the sum of [describe the debt,] most wrongously and unjustly, as, it is alleged, will appear to me on the Trial aftermentioned: And the said Diligence and Charge should be simpliciter sisted in the meantime, and the said Charger interdicted from proceeding therewith, until the cause shall be disposed of by me, or ultimately suspended; and the Charger found liable in expenses of Process and Extract of my Decree herein; and Warrants ought to be granted, in common form, for all manner of legal execution and for the Expenses thereof, as such Expenses shall be taxed; the Suspender having consigned the Sums charged to be paid, and also One Pound to

cover Expenses, in terms of the Statute. Therefore my Will is, That on sight hereof, ye lawfully summon the Charger to compear by himself or his Agent before me, or my substitute, in the Court House at A., upon the day of at of the clock forenoon, to answer at the Suspender's instance in the said matter, with certification, in case of failure, of being held as confessed, and Decree being pronounced against the said Charger as aforesaid. Given under the hand of me, one of the Agents before the Supreme Court, [or of the Local Court.]

(Signed by an Agent of the Supreme or Local Court, as No. VII.)

Edinburgh, 17 December 1835.

Registered in the Minute Book. (Signed A. B. Sheriff Clerk.)

Note.—The above Writ where presented against an Extracted Decree in absence of the Sheriff or Local Court, not to be received by the Sheriff Clerk, unless on deposition of One Guinea, to be applied in Payment of the Expense of Extract, and of all manner of legal Execution, in manner provided by the Statute.

No. XV.—FORM of a WRIT of SUPPLEMENT against a Respondent residing beyond the Boundaries of the Sheriff's Jurisdiction, or furth of the Kingdom, in an ordinary Action.

WILLIAM, &c. Our Will is herefore, and We charge you, that on sight hereof ye pass, at the instance of A., Pursuer of an Action before the Sheriff of Lanark, against B., Respondent, who resides beyond the boundaries of the jurisdiction of the said Sheriff, (or furth of the Kingdom,) and in Our name and authority summon, warn and charge the said Respondent personally, or at his dwelling-place or place of business [if within Scotland, or if furth thereof, by delivering a printed copy hereof into the Box placed in the Lobby of the Register House, Edinburgh, kept by the Junior appointed Depute Clerk of Session, in terms of the Statute thereanent,] and citing him to compear before the said Sheriff, or his Substitute, at Glasgow, within their ordinary Court place, where they are in use to sit for the administration of Justice, the eighth day after the date of your citation, in the ordinary case [or thirty days, if in the Hebrides, Orkney or Shetland,* or furth of Scotland, after the date of your citation,] in the hour of cause to see the Pursuer's Productions, and within six days thereafter, lodge Answers to the said Declaration, and such Productions as he means to found on, and the Writings called for by the Pursuer, and separate Answers to the Pursuer's Interrogatories, and hear and see the several facts set forth in the Declaration relative to said Writ verified and proven, and being so done, to hear and see Decree and Sentence given forth and pronounced against him, in terms of the conclusions of the Writ or Summons (or prayer of the Petition), or else to allege a reasonable cause to the contrary, with certification, as effeirs. According to Justice, &c. [as in Schedule (A.) I., and as directed by the Note, p. 131.]

No. XVI.—FORM of CITATION on a Writ before the Court of Session or the Sheriff Court, on the ordinary Induciæ.

I, A. B. [Name and Designation] Messenger at Arms [or, Agents of the Court of Session, (or if before the Sheriff Courts, say, Messengers at Arms, Agents or Officers of Court,] by virtue of a Writ [or, in case of a Petition, say, in terms of a Petition,] at the instance of A. [Name and Designation] Pursuer (or Petitioner,) dated and registered the day of in the year One thousand eight hundred and Thirty-five, of which and the relative Declaration in the Action, Inventory of Writings produced

* And the same Induciæ where Respondents reside in other Jurisdictions, and are cited to appear in any Sheriff Court in the Hebrides, Orkney or Shetland.

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produced therewith, and Note of Writings called for, and Interrogatories to be answered by the Respondent, the above and preceding pages are a full double, in His Majesty's and authority lawfully summon, warn, charge and cite you, B. [Name and Designation] Respondent, to compear before the Lords of Council and Session, at Edinburgh, upon the eighth [or, if before the Sheriff, say, at A. in the ordinary Court House, to compear before the Sheriff or his Substitute, upon the sixth] day next after the date of this Citation, in the hour of Cause, with continuation of days, to answer at the instance of the said Pursuer [or Petitioner,] in the matter declared on, with certification. This I do upon the day of in the year One thousand eight hundred and Thirty-five, before residenter in Edinburgh, Witness to the premises, and hereto with me subscribing.

(signed) A. B. Agent, [or Messenger or Officer.]
(signed) B. C. Witness.

N. B.—The Execution will of course be made to correspond with the Citation; and as the principal Writ or Petition is in the Clerk's hands, the Execution must be on a separate sheet of paper, and the Parties fully designed. A copy of the Writ or Petition, certified by an Agent of the Supreme or Local Court, is a lawful Warrant for citation.

SCHEDULE (B.)

FORMS OF DECLARATIONS.

COURT OF SESSION.

No. I.—In an Ordinary Action relative to WRIT SCHEDULE (A.) No. I.

DECLARATION for A., Pursuer, referred to in the Writ, in an ordinary Action at his instance against B., Respondent.

The Pursuer declares and offers to prove as follows:

I.—That the Goods mentioned in the Account referred to in the Writ were ordered by the Respondent's Servant, and were duly delivered to the Respondent.

Proof.—Parole.

II.—(Here add any other Facts necessary to be averred and proved, and under each article state the mode of proof, whether by admission to interrogatories, or on Judicial Examination, Parole or written Evidence, or pro ut de jure, as the case may be.)

(signed) By the Party or his Agent.

Adding after his signature, where such is the fact:

Prepared by me, and revised by Mr. A. B., Advocate.

No. II.—FORM of DECLARATION, stating the Grounds and Reasons of Action of Reduction following on Writ Schedule (A.) No. II.

DECLARATION for A., Pursuer, against B., Defender.

The Pursuer declares and offers to prove as follows:

I.—That the Vendition, Certificate of Registry and Indorsation described in the Writ are vitiated, and erased in substantialibus, and want the Names and Designations of the Writer and Witnesses, and are not duly signed nor tested, and the transfer was not duly recorded in terms of law.

Proof.—The said Vendition and other Writs.

II.—That the Pursuer at the time of granting the said Vendition was a Minor under Curators, and yet the same was granted by him without their consent, and for sums not due nor received by him, at least not profitably applied to his use.

Proof.—Parole proof.

 III.—(Here

III.—(Here declare or state, without argument, the other circumstances to be averred and offered to be proved, and state under each article the mode of proof.)

In respect whereof, &c.

(Signed as No. I. of this Schedule.)

No. III.—FORM of DECLARATION for A., Pursuer, (or, for A., Pursuer, by B. C., one of his Creditors,) in Action of Ranking and Sale at the instance of the said A. against his Creditors.

I.—That the Declarant [or Bankrupt] is notoriously insolvent and unable to pay his just and lawful debts.

Proof.—My own admission, [or where the action is raised and the Declaration lodged by a Creditor, say,—Charge and arrestment not loosed within fifteen days, or a Certificate of search or of imprisonment.]

II.—That the lands and others belonging to the Pursuer are, first, [insert descriptions of the lands.]

Proof.—Title-Deeds.

III.—That the Creditors of the Pursuer, and the Debts due to each of them, to the best of the Declarant's knowledge, are as follows: [here insert their names with their several Debts attached.]

In respect whereof, &c.

(Signed by the Bankrupt, or Creditor, or his Agent, as No. I. of this Schedule.)

SHERIFF COURT.

No. IV.—FORM of DECLARATION in a Summary Action relative to Petition before the Sheriff, Schedule (A.) No. XII.

DECLARATION for A. in the Summary Action, at his instance, against B., Respondent.

The Pursuer declares and offers to prove as follows:

I.—That the Pursuer is heritable Proprietor of, and stands infeft in, that tenement of land and garden at the back thereof, consisting of two acres or thereby, lying at Musselburgh, in the parish of Inveresk, and County of Mid-Lothian, bounded conform to Instrument of Sasine, dated Sixteenth July One thousand eight hundred and Thirty, duly recorded and herewith produced.

Proof.—The said Instrument of Sasine.

II.—That the Respondent, who is Proprietor of a piece of ground to the south of the Pursuer's property, has within these few days past begun to build and erect a house upon his said property; and in laying the foundation thereof, has encroached upwards of eight feet on the Pursuer's property, as evidently appears from the Pursuer's boundings, as also from the remains of an old dike which formerly enclosed the Pursuer's garden.

Proof.—Judicial examination of Respondent, or proof by Witnesses, or proof pro ut de jure.

(Here add any other facts which may appear necessary to be averred and proved, as the case may be, in articulate propositions, and without argument.)

In respect whereof, &c.

(Signed by the Party or his Agent, as No. I. of this Schedule.)

SCHEDULE (C.)

FORMS OF EXTRACTS OF JUDICIAL ACTS AND DECREETS IN THE COURT OF SESSION.

No. I.—FORM of EXTRACT of DECREET in an ordinary Action for Payment of Debt.

WILLIAM THE FOURTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, TO Messengers at Arms, Our Sheriffs in that part, conjunctly and severally, specially constituted, Greeting: WHEREAS the Lords of Our Council and Session, sitting in Judgment, on the day of decerned and ordained B. [Name and Designation] Respondent, to make payment to A. [Name and Designation] Pursuer, of the sum of sterling of principal, contained in and due by the Bond, Bill or other document, or claim founded on, in the Declaration, Writ [or Petition, which must be shortly mentioned by date or otherwise, as expressed in the Judgment of the Court] or due in manner declared; also, of the lawful Interest of the said principal Sum from and since the day of till payment; also, of the sum of of expenses found due; also, of the sum of as the expense of extracting and recording these Presents; and also the expenses of all legal execution hereon (except of arrestment or Inhibition), as the same shall, if required by the Respondent before payment, be taxed and certified by the Auditor of Court on the back hereof; and ordained a charge of fifteen days, and all other execution to pass as effeirs.

OUR WILL IS, HEREFORE, That on sight hereof ye pass, and in Our name and authority COMMAND and CHARGE the above-named Respondent personally or at his dwelling-place or place of business, to make payment to Our said Lovite of the Sums above specified contained in the Decree before narrated, and that within Fifteen Days next after he is charged by you thereto, under the pain of imprisonment [if Respondent furth of Scotland, see No. I. of Schedule (A.)]; and that ye lawfully fence and arrest his whole moveable property, including maritime subjects belonging to him, wherever situated, on land or water, or in whose hands soever the same may be, and take the sails, rudders and anchors from all ships and boats (the same being always in safe harbour); and that the days of charge having expired, ye also fence and appraise, poind and distrain his whole readiest moveable property, wherever the same can be found (except maritime subjects), make penny thereof to the avail and quantity of the aforesaid Sums, and see our said Lovite completely satisfied and paid of the same. [Here add Warrant of Arrestment or Inhibition, if necessary.] Moreover, that upon expiry of the days of charge, and having used the utmost execution against the moveable property of the Respondent, without obtaining payment of the foresaid debt, that ye also pass, and in Our name and authority lawfully command the Sheriffs of Our Sheriffdoms, Stewards of our Stewartries and their Deputies, the Provosts and Magistrates of Our Burghs, as also Messengers at Arms, to apprehend the person of the Respondent wherever he can be found within the bounds of their respective jurisdictions, and being so apprehended, to put him in sure ward, furnance and captivity within their respective Tolbooths or other Warding Places, and detain him therein upon his own expenses, aye and until he fulfil and obey the command given to him in virtue of these presents; and if needful, that ye make gates, doors and all shut and lockfast places open and patent, and use Our keys thereto, within Three Days next after they are charged by you to that effect; with certification to them if they fail, the said space being elapsed, Our other Letters will be directed against them charging them thereto simpliciter. According to Justice; as ye will answer to Us thereupon. Which to do, We commit to you, and each of you, full power by these presents; delivering them again to the Bearer by you duly executed and indorsed. Given under the

hands of me, one of the Agents of the Court of Session in terms of the Statute thereanent, at Edinburgh, the day of in the year of Our reign One thousand eight hundred and Thirty-five.

(Signed by an Agent of the Court of Session.

Adding after his signature:

Prepared by me, and written by K. L. my Clerk [or Apprentice], in so far as not printed, on this and the preceding pages.

Compared and certified to be correct by me, Examiner of Extracts and Keeper of the Judicial Records of the Court of Session. (Signed A. P.)

Note.—In cases of Decrees in Absence, the form will be the same as in the above, with the addition of the words "in absence" before the word "decerned," with such alteration in regard to expenses as the circumstances of the case may require.

No. II.—FORM of DECREET of ABSOLVITOR in an ordinary Action for Payment of Debt exceeding Ten Pounds.

WILLIAM, &c. WHEREAS the Lords of Council and Session, sitting in Judgment, on the day of assoilzied simpliciter, B. [name and designation] Respondent from the whole conclusions of the Writ and Action insisted in before the said Lords at the instance of A. [name and designation] Pursuer, against the said Respondent, for payment of the sum of sterling, alleged to have been due by the Respondent to the Pursuer by the Bond, Bill or other document of debt or claim mentioned in the Writ [which it will be necessary to refer to by date or description], and decerned and ordained the Pursuer to make payment to the Respondent of the sum of [Here insert the sum of expenses, if such are found due by the judgment of the Lord Ordinary or the Court;] also the sum of further, as the expense of extracting and recording these presents; and also the expenses of all legal execution, as the same, if required by the Pursuer before payment, shall be ascertained and certified on the back hereof by one of the Auditors of Court; and ordained a charge of Fifteen Days, and all other execution to pass in form as effeirs. [Here insert Will as above, and to be signed and certified as No. I. of this Schedule.]

No. III.—FORM of EXTRACT in a SUSPENSION where the Warrants and Charge are found orderly proceeded.

WILLIAM, &c. WHEREAS on the day of the Lords of Council and Session sitting in judgment, in the process of Suspension insisted in at the instance of A. [name and designation] Suspender against B. [name and designation] Respondent, complaining of having been charged, (or threatened to be charged) to make payment to the Respondent of the sum of sterling of principal contained in and due by the Bond, Bill or other document [which must be shortly described by title and date], and of the interest thereof, the said Lords found the Warrants and Charge to be orderly proceeded, and decerned and ordained the same to be put to further execution; and further decerned and ordained the said Suspender and his Cautioners in the said Suspension, conjunctly and severally, to make payment to the said B. Respondent of the aforesaid sum of sterling of principal; Item, of the lawful interest thereof since the day of when the same fell due, till payment; and of the sum of sterling of expenses found due by

by the said Suspender to the said Charger for wrongous suspending; and of the sum of as the expense of extracting these presents; besides the sum of as the expense of extracting the said Bond of Cautionry; and further the expenses of all legal execution, as the same shall be ascertained and certified on the back hereof by one of the Auditors of Court, if required by the Respondent before payment; and ordained a charge of Fifteen Days and all other execution to pass by these Presents; and on the Extract of the Suspender's Bond of Cautionry against the Suspender and his Cautioners, conjunctly and severally in form as effeirs. [Here insert the Will as above, and to be signed and certified as No. I. of this Schedule.]

No. IV.—FORM of EXTRACT in a SUSPENSION where the Warrants and Charge are suspended simpliciter.

WILLIAM, &c. WHEREAS on the day of the Lords of Council and Session sitting in judgment, in the Suspension insisted in at the instance of A. [name and designation] Suspender against B. [name and designation] Respondent, complaining of being charged, or threatened to be charged, to make payment to the Respondent [the nature of the Charge to be shortly stated], the said Lords suspended the Warrants and Charge simpliciter, found the said Charger liable in expenses; and decerned and ordained the Respondent to make payment to the said A. Suspender of the sum of of taxed expenses, and of the sum of as the expense of extracting these presents, and the expenses of all legal execution, as the same, if required by the Respondent before payment, shall be ascertained, and certified on the back hereof by one of the Auditors of Court, and ordained a Charge of Fifteen Days, and all other execution to pass hereon in form as effeirs. [Here insert Will as above, and to be signed and certified as No. I.]

No. V.—FORM of DECREE of ADJUDICATION in IMPLEMENT.

WILLIAM, &c. WHEREAS in an Action of Implement raised before the Lords of Council and Session [or before a Sheriff Court] at the instance of A. B. Pursuer, [name and designation] against C. D. [to be named and designed, and stating the proper character in which he is sued] before the Lord B., Ordinary, [or Sheriff], and in which Action the Pursuer appeared by Mr. A. B., his Agent, who for him produced the [Deed, or whatever it may be] libelled on [here describe the Deed shortly, by its date, names of Parties, &c.]; and the Respondent failed to appear, [or, appeared by B. C., his Agent, &c.]: Therefore, the said Lord B., Ordinary, acting for the Lords of Council and Session, [or the Sheriff] [in terms of the Writ, or as the Judgment may be,] have adjudged and do hereby adjudge, from the Respondent, the lands and others contained in the Declaration in the Action and after written: that is to say, All and Whole, &c. [here describe the lands, and indicate in the description whether they are possessed in freehold or feu] and decerned and declared, and hereby decern and declare the same to belong to the Pursuer, his heirs and successors, [or assignees,] whomsoever, heritably, in implement of the foresaid, &c. [whatever it is, as concluded for.] In witness whereof, this Decree, is prepared by me, one of the Agents of the Court of Session, or Sheriff Court, and written by K. L., Clerk to me, on this and the preceding pages, and is extracted and subscribed by me, at the day in the year 1836.

(signed) E. F.

Examined and certified to be correct, by me, Examiner of Extracts, and Keeper of the Judicial Records of the Court of Session [or Sheriff Clerk]. Signed, A. P.

No. VI.—ACTIONS of RANKING and SALE.

(1.)—Form of Act and Commission in Ranking and Sale.

WILLIAM, &c. WHEREAS on a Petition, and Action of Ranking and Sale, insisted in and depending before the Lords of Our Council and Session, at the instance of A. against B., and his Creditors, the Declaration in which narrates that the following heritable subjects belong to the common Debtor; videlicet, All and whole the Lands of, &c. [here describe the several subjects contained in the Declaration.] After some procedure had taken place in the Action before the Lord B., as Ordinary thereto, the said Lord Ordinary, of the date hereof, sustained the Libel, and allowed the Pursuer to prove pro ut de jure, the yearly rent of the lands and others before specified, what the same have paid, do or may pay yearly, and the worth and value of the Lands and others, and at how many years' purchase the same may be put up and sold; and allowed the Respondents a conjunct probation thereanent; and for that end gave and granted full power, warrant and commission, &c. [Agreeably to the terms of the Interlocutor of the Court, which must be engrossed.]

Extracted by me, one of the Agents of Court.

(Signed and certified as on No. I. of this Schedule.)

(2.)—Extract Warrant of Intimation and Publication of the Sale of a Bankrupt's Estate.

Proclamation and Intimation.

WILLIAM. &c. WHEREAS, in the Process of Ranking and Sale, raised and depending before the Lords of Our Council and Session, at the instance of A. against B. and his other Creditors, concluding that the Lands, [Here describe them shortly by their names] belonging to the said B., should be sold under the authority of the said Court, and the Rents and Prices thereof divided amongst his Creditors, conform to their respective rights and diligences, affecting the same, Our said Lords, on the day of on the Report of the Lord Ordinary to the said Process, (or the Lord Ordinary officiating during vacation,) having advised the state of the Process, found it proven, That the total yearly gross Rent of the said Lands, [Here specify the Rental of them, and the upset price:] And found it proven [or admitted,] that the common Debtor is notoriously Bankrupt and unable to pay his Debts: And, therefore, Our said Lords ordained the said Lands, and others before mentioned, to be exposed to public roup and sale, and remitted to the Lord Ordinary to the process in time of Session, (or the Lord Ordinary officiating during the vacation,) to sell and adjudge the same, in whole or in parcels, by public roup, to the Person or Persons who should make the highest offer for the same, but not under the respective prices before mentioned set thereon by Our said Lords; and that within the Parliament House at Edinburgh, [or where a remit or commission is granted to the Sheriff, at B.] upon the day of between the hours of One and Four in the Afternoon, commencing at One o'clock, with the usual powers in like cases; and ordained this Our Warrant of Publication and Intimation of the said Roup and Sale to be issued and executed in due form. Our will is, therefore, That on sight hereof, ye pass, and, Thirty Days previous to the Roup, edictally execute this Warrant, and also to the Places after mentioned respectively and successively by open public proclamation of these presents, and by public reading of the same, at the most public places in the towns and villages within the parish where the said Lands and others before mentioned do all lie, and at the most public places in the towns of F., G., H., N., P., and Q., being the six towns next adjacent to the said Lands, Tenements and others foresaid, and all other places needful; and also to intimate these presents by inserting a Notice once in the Minute Book of the Court of Session, once in the Edinburgh Gazette, and three

three times once a fortnight or oftener in newspaper, or such other newspaper as may be deemed proper, and each of which notices in any of the said newspapers, if inserted three times, shall in their order be intituled, "First Notice," "Second Notice," "Third and Last Notice;" and thus make due and lawful Intimation and Publication to all and sundry our lieges and others concerned, That the whole Lands and other subjects above mentioned, belonging to the said A. are to be exposed to Sale by way of public Roup, at the place, time and between the hours above-mentioned; and that the same are to be sold in whole or in parcels by Our said Lords to the Person or Persons who shall make the highest offer for the same, but not under the price or prices above mentioned, set thereon by Our said Lords; and that ye affix and leave upon the respective public places aforesaid, after performing all the solemnities requisite thereanent, printed copies of this Our Warrant of Publication and Intimation, in order that all and sundry Our lieges and others concerned, and such as have a mind, may appear and be present at the said Roup, and offer for the said Lands, of which they by these presents are duly certiorated. According to justice, as ye will answer to Us thereupon. Which to do, We commit to you and each of you full power by these presents, delivering them again to the bearer, by you duly intimated, and executed, and indorsed. Given under the hands of me, one of the Agents of the Court of Session, at Edinburgh, the day of in the year of our reign, 1835.

(Signed and certified, as on No. I. of this Schedule.)

(3.)—Form of Extract of Decree of Sale.

WILLIAM, &c. WHEREAS a Petition in an Action of Ranking and Sale was raised and insisted in before the Lords of Our Council and Session, at the instance of A. against B., and his other Creditors, and is now depending before Lord B., Ordinary (Third Division) and in which the Pursuer appeared by Mr. D. C., his Agent, and after a proof had been adduced of the rental and value of the said subjects, and at a Roup of the same, C. [name and designation] having offered for the said subjects the sum of sterling, and was the last and highest offerer for the same at the said Roup, and was accordingly preferred to the purchase thereof by the Lord Reporter, agreeably to the articles of Roup, and has accordingly found Caution in terms of the said articles: Therefore Our said Lords sold, adjudged, and do hereby sell and adjudge the Lands and others described in the Declaration in the said Action, and after written, videlicet, All and Whole, &c. [Here describe the Lands, and indicate in the description whether they are possessed in freehold or feu,] and decerned and declared, and hereby decern and declare the same to pertain and belong to the said C., his heirs and [or assignees], whomsoever, heritably and irredeemably, on payment or consignation of the aforesaid price, with the annual rent thereof, in the terms mentioned in the articles of Roup and relative Bond granted for the same [Here the remainder of the Interlocutor of the Court must be taken in.] According to justice, &c. [as on No. I. of this Schedule.]

(4.)—Form of Extract of Decree of Ranking.

WILLIAM, &c. WHEREAS a Petition in an Action of Ranking and Sale was raised and insisted in before the Lords of Our Council and Session, at the instance of A. against B. and his other Creditors, and the Declaration in which narrated the following heritable subjects belonging to the said B.; videlicet, All and Whole, &c. [Here mention the names of the subjects shortly, and the rents and prices thereof, divided among his Creditors, according to their several rights and diligences affecting the same; the following

following grounds of debt and diligences thereon were produced on the part of the respective Creditors afternamed; videlicet, [Here take in shortly the grounds of debt, &c. produced by the Creditors, conform to the Inventories thereof given in by them; then add:] And after some procedure had been taken in the Action before the Lord as Ordinary thereto, Our said Lords of Council and Session, of the date hereof, ranked and preferred, and hereby rank and prefer, &c. [Here the words of the Interlocutor to be verbatim ingrossed,] and ordained all execution necessary to pass, in form as effeirs.

Extracted by me, one of the Agents of Court.

(Signed and certified, as on No. I. of this Schedule.)

(5.)—Form of Extract of Decreet of Division.

WILLIAM, &c. WHEREAS in a Petition and Action of Ranking and Sale was raised and insisted in before the Lords of Our Council and Session at the instance of A. against B., and his other Creditors, the Lord B., Ordinary to the said Process, acting for the said Lords of Our Council and Session, of the date hereof, approved of the scheme of division of the rents and prices of the said subjects made up and reported by Auditor of Court [or Depute Clerk of Session]; and in terms thereof decerned and ordained C. the purchaser of the said subjects [or if caution has been found, and D., his Cautioner, in terms of the Bond of Caution granted by him,] to make payment of the sum due by him, extending of principal and interest at the term of to the sum of sterling, in manner following, videlicet, [Here take in that part of the Auditor's or Depute Clerk's scheme which allocates the price, and in case the Factor has any balance in his hands, the allocation of that balance must also be inserted,] and ordained a charge of Fifteen Days, and all other execution necessary, to pass and be direct hereon in form as effeirs. [If the Purchaser have consigned the price, say,—grants warrant and ordains, (name of the Rank,) to make payment to the several Creditors above mentioned of the respective sums allocated to them, in terms of the foregoing Decree.]

(Signed and certified as on No. I. of this Schedule.)

SCHEDULE (D.)

FORMS of WARRANT on registered Documents.

No. I.—WARRANT of CHARGE, POINDING and IMPRISONMENT when the Debt exceeds Ten Pounds, [or, if desired, either ARRESTMENT and INHIBITION, or any of them, as the case may be,] to be raised on a Decree pronounced of course, on the Registration in the Books of Council and Session, or of the Sheriff or Burghs, of Protests on Bills of Exchange or Promissory Notes, or on Bonds, Contracts or other Instruments, having a Clause of Registration.

WILLIAM, &c. [or A. B., Esquire, Sheriff of the County of A., &c.] Our Will is, herefore, and We [or I] charge you that on sight hereof ye pass at the instance of our Lovite A., who obtained a Decree of the Lords of Our Council and Session, [or my Decree,] dated [date] against B., decerning and ordaining him to make payment of certain Sums of Money, videlicet, [or to fulfil and perform, as the case may be, describing the conclusions or obligations shortly and generally,] conform to the said Extracted Decree, which is here held as repeated, brevitatis causâ, and in Our name and authority lawfully command and charge the said B., personally, or at his dwelling-place, to make payment to

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to Our said Lovite of the said principal sum, and the legal interest thereof since the same became due, and in time coming till payment, also the sum of as the expenses of the said Extracted Decree, and the expenses of all legal execution (except of Arrestment and Inhibition) as the same shall, if required by the Respondent before payment, be ascertained and certified by the Auditor of Court on the back hereof, in terms of said Decree, (and of which Decree you will at the same time serve him with a full double or copy to the Will), and that within Six Days after he is charged by you hereto, in which if he fail, that immediately thereafter ye use the whole other Order against him prescribed by Law. ATTOUR, that ye lawfully fence and arrest [in the case of maritime subjects say,—all and sundry Ships, Boats, and appurtenances thereof, and take the Sails, Rudders and Anchors from the said vessels (the same being always in safe harbour),] and also fence and arrest his whole readiest moveable property, of whatever kind, wherever situated, on land or water, or in whose hands soever the same may be, and that ye also fence and appraise, compel, poind and distrain all and sundry his said whole readiest moveable property, make penny thereof (exclusive of maritime subjects) to the avail and quantity of the aforesaid sums, and see the said A. completely satisfied, and paid of the same after the form and tenor aforesaid in all points; [Here take in the Warrant of Inhibition or Imprisonment, if required,] According to justice; because the said Extract, Decree or liquid ground of Debt has been produced: As ye will answer to Us [or me] thereupon: Which to do We commit to you full power by these presents, delivering them by you again to the Bearer duly executed and indorsed. Given under the hands of me one of the Agents of the Court of Session [or one of the Agents of the Sheriff or Burgh Court,] the day of in the year of Our Reign, One thousand eight hundred and Thirty-five.

[Signed by D., an Agent of Court, who shall add after his signature:

Written, in so far as not printed, by K. L., my Clerk [or Apprentice], on this and the preceding pages.]

Certified to be correct by me, Examiner of Extracts and Keeper of the Judicial Records of the Court of Session, [Signed A. P., or B., Sheriff Clerk of A.]

(See Note, p. 146.)

No. II.—SEPARATE WRIT for ARRESTMENT or INHIBITION, may also be obtained when the Warrants for such have not been included in the Original Writ or Summons, or Extract Decree; or Writs for Lawburrows, or other Cases, where it was formerly competent to obtain Signet Letters for the same purposes; all which shall be signed and certified as above.

No. III.—FORM of DECREE following on a Registered Protest, or Bill of Exchange, or Promissory Note for a Sum not exceeding Ten Pounds sterling, and containing Warrant of Charge, Arrestment and Poinding.

AT the day of in the year One thousand eight hundred and Thirty-five, in presence of the Lords of Council and Session, [or A. B., Esquire, Sheriff of the County of A., &c.] compeared D. A. as Procurator, [or Agent, if before the Sheriff,] for the holder of the Bill, [or Promissory Note,] after named and designed, and gave in the Protest under written to be registered in the Books of Council and Session, [or in the Sheriff Court Books,] conform to Law, which desire the said Lords of Council and Session, [or the Sheriff,] found reasonable, and ordained the same to be done accordingly; of which the tenor follows: [Here copy in Bill and Protest.] And the Lords of Council and Session [or Sheriff,] ordain [or ordains] Messengers-at-Arms, [or Messengers and Sheriff Officers,] to charge the said [name of Debtor] to make payment to the said [name of Creditor,] of the foresaid principal sum

and interest, and Five Shillings of Expenses of Protest and Extract, and obtaining such Extract, and also for the expenses of Charge and Poinding, as the same shall be taxed by the Auditor, if required by the Debtor before payment, and that within Six Days after such charge; and ordains Execution by Arrestment, and also by Poinding, after a charge of Six free Days.

(Signed by the Keeper or Substitute Keeper of the Register of Council and Session, or the Sheriff Clerk.)

SCHEDULE (E.)

FORMS of WARRANTS on EXTRACT DECREES of the SHERIFF and BURGH COURTS, (except under the Small Debt Acts.)

No. I.—WARRANT of CHARGE, ARRESTMENT, INHIBITION, POINDING and IMPRISONMENT (where the Debt exceeds Ten Pounds Sterling) following on a Decreet for Payment in an Action before the Sheriff or other Local Court.

A. B., Esquire, Sheriff of the Sheriffdom of [or, C., D., and E., Magistrates of the Burgh of B., or Burgh of D., which contributes to the Return of a Member of Parliament, or F. and G., Esquires, Justices of the Peace for the County of D.] sitting in judgment; To Messengers at Arms, or Officers of Court, conjunctly and severally. WHEREAS on the day of last, in an Action before me [or, us] at the instance of A., Pursuer, against B., Respondent; I [or, we] decerned and ordained the said B., Respondent, to make payment to the said A., Pursuer, of the Sum of contained in and due [by the Bond, Bill or other Document or Claim founded on in the Declaration, which must be shortly mentioned by date or otherwise,] in manner libelled. Item, of the lawful Interest of the said Sum, from and since the day of till payment; Item, of the Sum of of Expenses of Process [here insert the Sum of Expenses, if such are found due by the Judgment;] Item, of the Sum of further, as the expense of extracting and recording the Decreet, and such further Sum as the expenses of these Presents, and also the expenses of all legal execution hereon, including the Auditor's fee (except of Arrestment and Inhibition), as the same, if required by the Respondent before payment, shall be taxed and certified by the Auditor of Court on the back hereof, and ordained a charge of Fifteen Days, and all other legal execution necessary to pass and be direct hereon in form as effeirs, as an Extract of the said Decree bears.

My [or, our] will is, herefore, that on sight hereof ye pass, and in my [or, our] name and authority lawfully charge the above-named Respondent, personally or at his dwelling-place, to make payment to the Pursuer, of the Sums above specified, and also of the expenses of all Legal Execution (except of Arrestment and Inhibition), on being ascertained and certified as above mentioned, contained in the Decree above narrated, and that within Fifteen Days next after he is charged by you thereto, under the pain of imprisonment; in which if he fail, the said space being elapsed, that immediately thereafter ye use the whole other order against him prescribed by law; and that ye lawfully fence, arrest and appraise, compel, poind and distrain the said Respondent's whole readiest moveable Goods, Gear, Debts, Sums of Money and other Moveable Property, wherever the same can be found (except Maritime Subjects), make payment penny thereof to the avail and quantity of the aforesaid Sums, and see the Pursuer completely satisfied

satisfied and paid of the same. [If Warrant to arrest Maritime Subjects* be required, add here,—and that ye lawfully fence and arrest his whole Ships, Vessels, Boats and their Appurtenances, and other Maritime Subjects, within my jurisdiction, wherever or in whose hands soever the same may be.] [Here also insert Warrant of Inhibition, if necessary.] Moreover upon expiry of the days of charge, and having used the utmost execution against the moveable Property of the Respondent, without obtaining Payment of the foresaid debt, that ye also pass and in my [or, our] name and authority, and in the name and authority of His Majesty, lawfully command the Sheriffs of Sheriffdoms, Stewards of Stewartries and their Deputies, the Provost and Magistrates of Burghs, and also Messengers at Arms, to apprehend the Person of the Respondent wherever he can be found, within the bounds of their respective jurisdictions, and being so apprehended to put him in sure ward and captivity, within their respective Tolbooths or other Warding-places, and detain him therein upon his own expenses, aye and until he fulfil and obey the command and charge given to him by these Presents; and if needful, that ye make all shut and lock-fast houses, places, gates and doors, open and patent, and use the keys of His Majesty thereto, within Three Days next after they are charged by you to that effect; with certification to them if they fail, the said space being elapsed, His Majesty's other Letters will be directed against them, charging them thereto simpliciter. According to justice; as he will answer to us thereupon. Which to do, we commit to you and each of you full power by these Presents, delivering them by you again to the Bearer, duly executed and indorsed. Given at the day of in the year of His Majesty's Reign, One thousand eight hundred and Thirty-five.

(Signed by Agent of the Sheriff or Burgh Court, or Local Court. Adding after his signature:

Written by K. L. Clerk to me, and printed on this and the preceding pages.)

Note.—The above Warrants to be prepared and signed by an Agent of Court, resident within the jurisdiction of the Court; the Will or formal part to be written or printed, and the blanks to be filled up; and such part of the printed Form as may not apply, to be delete, and the Agent to write on the back of the Warrant and Copy, and on the Schedule of Arrestment or Inhibition to be served, his own name and address.

No. II.—WARRANT of CHARGE, ARRESTMENT, INHIBITION, POINDING and IMPRISONMENT, following on DECREE for PERFORMANCE, in an Action before the Sheriff or Burgh Court.

A. B., Esquire, Sheriff of the county of A. [or, C. D. and E., Esquire, Magistrates of B.] sitting in judgment, To Officers of Court, or Messengers at Arms, conjunctly and severally. WHEREAS on the day of last, in a summary Petition, exhibited and presented to me [or, us] for and in name of A. against B. Respondent, I [or, we] decerned and ordained the said Respondent, to [Here set forth the particular act which the Respondent is ordained to perform, such as to deliver up Papers or goods or effects, or to execute and deliver to the Pursuer a Deed or Writing or whatever it may be; and if expenses are decerned for, Decree for Expenses and Warrant for all manner of legal Execution necessary, as in the preceding Form, with the former Warrants, will fall to be added.]

My [or, our] will is, therefore, that on sight hereof ye pass, and in my [or, our] name and authority lawfully charge the above-named Respondent personally or at his dwelling-place,

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*Warrant of Arrestment of Maritime Subjects, or Warrant of Inhibition, not competent in Extracts of Decrees of Burghs or Justices of Peace.

place, to obey, fulfil and perform my [or, our] Decree above narrated in all points; [and if Expenses are decerned for, add,—and make payment of the Expenses decerned for by the said Decree and the Expenses of all legal execution (except of arrestment and inhibition) on being ascertained and certified as above mentioned,] and that within Fifteen Days next after he is charged by you thereto, under the pain of imprisonment; and that ye lawfully fence and arrest his whole moveable Property,* including Maritime Subjects, situated on land or water, or in whose hands soever the same may be, and take the sails, rudders and anchors, from all Ships and Boats [the same being always in safe Harbour,] and that the days of charge having expired, ye also fence, appraise, poind and distrain his whole readiest moveable Property, wherever the same can be found (except Maritime Subjects) Money and other Moveables of every kind, wherever (except Maritime Subjects), make payment penny thereof to the avail and quantity of the aforesaid Sums, and see the Complainer completely satisfied and paid of the same. [Here include Warrant of Inhibition, or of Imprisonment, if necessary.]

[Signed as on No. I. of this Schedule.]

Note.—See Note, p. 153, which applies also to the above Form.

No. III.—WARRANT of CHARGE, ARRESTMENT, INHIBITION, POINDING and IMPRISONMENT, following on a DECREET of ABSOLVITOR exceeding Ten Pounds.

A. B. Esquire, Sheriff of the County of A. [or, C., D., E., Esquires, Magistrates of B., and their Assessor,] sitting in judgment; To Officers of Court, or Messengers at Arms, conjunctly and severally. WHEREAS in an Action raised before me [or, us] at the instance of A., Pursuer, against B., Respondent, for payment of the Sum of [or, for performance, interdict, removing or ejection, &c. as the case may be, reciting shortly the Description of debt, obligation or ground of action, as in the Writ and Declaration], I [or, we] assoilzied the said Respondent from the whole conclusions of the said Action, and decerned and ordained the said Pursuer to make payment to the said Respondent of the sum of of Expenses of Process [here insert the Sum of Expenses, if such are found to be due by the Judgment.] Item, of the Sum of further, as the expense of extracting this Decreet, and recording the same; and also the expenses of all legal execution, as the same, if required by the Debtor before Judgment shall be ascertained and certified on the back hereof, by the Auditor of Court: also ordains a charge of Fifteen Days, and all other manner of execution necessary to pass and be direct hereon in form as effeirs.

[Here add Warrant to charge, &c., and to be signed as in No. I. of this Schedule.]

SCHEDULE (F.)

No. I.—FORM of NOTICE by a BANKRUPT, who has received a Charge of Payment of a Debt, or who has been imprisoned, or whose Estates have been sequestrated, or of whose Estates an Action of Ranking and Sale has been brought, or who has executed a voluntary Trust Deed in favour of a Trustee for behoof of his whole Creditors, and has raised a Petition of Cessio Bonorum.

NOTICE to the CREDITORS of A. B. residing at B.

I, A. B., formerly Merchant at A., [having received a Charge of Payment, and being insolvent, or, presently a Prisoner in the Tolbooth of B.] hereby intimate, that I have raised

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* The words as to Maritime Subjects to be omitted in the Warrant, on a Decree of a Burgh Court.

raised an Action of Cessio Bonorum before the Court of Session [or, the Sheriff, as the case may be, and a Copy of the Petition of Cessio Bonorum is sent to each Creditor]; and I hereby request a Meeting of my Creditors, to be held at the Royal Exchange, Edinburgh [or other place], on [day of week and date,] at Eleven o'clock forenoon, for the purpose of my being interrogated by my Creditors with regard to the state of my affairs, and hearing me on my claim to obtain the benefit of said Cessio Bonorum from the said Court, and requiring my said Creditors to consent to or to refuse to consent to the same [or, to receive an offer of Composition of Fifteen Shillings per Pound by me to my said Creditors, and to accept or refuse the same, as the case may be], or to appoint a Trustee or Trustees in succession, for winding up my affairs, with certification. Of which Notice is hereby given to all concerned.

Edinburgh, 8th December 1835. (signed) A. B.

No. II.—FORM of SCHEDULE relative to Petition for the benefit of the Process of Cessio Bonorum, Schedule A., No. VIII.

SCHEDULE for A. B., [Name and Designation of Pursuer] relative to his Petition for the Process of Cessio Bonorum against D. C. and his other Creditors.

I, the said A. B., do hereby declare, That this Schedule contains a full and true description of persons to whom I am indebted, or who, to the best of my knowledge and belief, claim to be my Creditors, together with the nature and amount of their Debts and Claims respectively; and also, a full, true and perfect account of all Debts owing to me, at the date of my Petition in the process of Cessio, and the names and places of abode of the Debtors, and of the Witnesses who can prove such Debts, so far as I can set forth the same; and also a full, true and perfect statement of all the estates and effects, heritable and moveable, in my possession, or to which I am entitled; and also of all fees, salaries and monies received by me during the last three years, and the disbursement thereof; and that the whole contents of my Schedule is true and correct, to the best of my knowledge and belief; [or, in the case of a Bankrupt whose estates have been sequestrated, the Declaration may be as follows:—I, the said A. B., do hereby declare, That my whole estates, real and personal, have been sequestrated for behoof of my just and lawful Creditors, and surrendered by me to them, in terms of law, and to the states of my affairs, lodged with the Trustee on my sequestrated estates, my Creditors are hereby referred.]

(signed) A. B.

MONIES received by A. B.

Date of Receipt	From whom received.	Amount.	Date of Disbursement.	To whom.	Amount.
		£. s. d.			£. s. d.
1832	For Goods furnished to A. B., Leith	15 – –	1832	By Account for Furnishings, per Receipt	15 – –
1833	For Salary of my Office	100 – –	1834	By Household Expenses for Self, my Wife, and three Children, for two years	198 – –
1834	For Salary	100 – –		By Cash in hand, to be paid for obtaining my cessio	2 – –
	£.	215 – –		£.	215 – –

Balance Sheet of A. B.*

A. B.		Dr.		A. B.		Cr.
		£. s. d.				£. s. d.
1832	To received for Goods -	15 – –	1832		By paid for Furnishings	15 – –
1833	To Salary, as more particularly set forth in Statement, No. III. 4.	100 – –			By Debts due to my Estate, per State, No. II.	42 12 –
1834	To ditto - - -	100 – –	1834		By Household Expenses, for Self, Wife and Family, for two years	198 – –
	To Debts due by me, per State, No. I. - -	24 – –			By Cash in hand, to be paid for obtaining the benefit of the Process of Cessio Bonorum -	2 – –
		239 – –				
	Deficiency -	17 12 –				
	£.	257 12 –			£.	257 12 –

24th December 1835.

Note.—Property per State, No. III.—2—L. 50.

My failure arose from having sold goods on credit, and not being able to recover payment of the prices.

No. I.—State of Debts due to Estate of A. B.

When contracted.	No.	Names, and present or last Residences of Creditors.	Amount.	Admitted or disputed.	Nature of the Debt, and if disputed, the reason why.
			£. s. d.		
1832	1	A. B., Grocer, Edinburgh -	7 – –	Admitted.	For Groceries.
1833	2	C. D., Glasgow - - -	14 – –	Admitted.	For Cloth furnished.
1834	3	E. F., Musselburgh - -	3 – –	Disputed.	For Herrings; but never delivered.
		Credits, Total -	24 – –		

No. II.—State of Debts due to Estate of A. B.

Good, bad or doubtful.	No.	Names, Address, and Description of Debtors, and where to be met with.	Amount.	How incurred or secured.	Witnesses to prove the same where to be met with, or what other evidence to prove the Debt.
			£. s. d.		
Good, if met with.	1	W. T., formerly 10, George Street, Edinburgh, now in Paris - - - -	12 12 –	For Goods in my trade or business.	A letter from him.
Bad.	2	S. T., Moffat - - -	20 – –	- ditto -	A bill granted by debtor.
Very doubtful.	3	O. K., formerly Linlithgow, but whose residence now I am unable to state - -	10 – –	- ditto -	A letter by debtor, my books and my oath in supplement.
		Due to my Estate -	42 12 –		

No. III.—STATEMENT

* As every Schedule must differ in various ways, the Forms above given are merely intended as an outline of the manner of preparing the Schedule, which must be varied according to such particular case, and every particular correctly set forth, so that the Creditors or the Court may obtain every necessary information.

No. III.—STATEMENT of the Heritable and Moveable Property and Effects belonging the Estate of A. B.

1. Heritable Property:
None.

2. Household Furniture, &c.:

	£	s.	d.
A Clock, supposed value about	2	—	—
A Bedstead ditto	1	—	—
Four Chairs ditto	1	—	—
Other Articles	46	—	—
£.	50	—	—

[Wearing Apparel and Working Tools not exceeding in value 5*l.* Sterling excepted.]

3. Papers, Deeds, Writings and Books of Accounts:
One Day Book.
A Ledger, &c.

By the last Will and Settlement of F. G., 6, Cheapside, London, I am left a Legacy of 100*l.* in fee, and to A. D. in liferent.

4. Salaries, Fees or Allowances, to which I am entitled:
£. 100 from the Customs.

(signed) A. B.

SCHEDULE (G.)

No. I.—FORM of ABBREVIATE of INHIBITION on a depending Action, or liquidate Ground of Debt, and of Executions for the General Register of Inhibitions.

ABBREVIATE of INHIBITION:—A. [Name and Designation of Inhibitor] against B. [Name and Designation of Debtor.]

THE Warrant of Inhibition is included in the Writ or Summons, or proceeds on a depending Petition to the Court of Session, or liquid ground of Debt, in the usual terms, and is dated the day of and is given under the hands of A. B., one of the Agents of the Court of Session [or, one of the Agents of the Sheriff or Burgh Court of D.]

The relative Declaration describes the Debt [or the liquid ground of Debt as described in the Warrant] as follows: [Here copy so much of the Declaration or Warrant, or liquidate ground of Debt, as distinctly describes the Debt]: and the Writ or Summons concludes, [Here take in verbatim the conclusions of the Writ or Summons, except hat the interest shall only be narrated as concluded for prior to the date of the Writ, although interest subsequent to the date of the Writ be concluded for in the Writ, to the effect of Decree being pronounced for the same.]

The Writ of Inhibition, and [where there is a depending Action], a full copy of the Declaration were served by C. D., Messenger at Arms [or, Officer of the Sheriff or Burgh Court of D.] against the Debtor [Describe in what manner, by quoting from the Execution] on the day before a Witness or two Witnesses; videlicet, [Here insert their Name or Names, and Designation or Designations.]

(Signed by an Agent of the Supreme or Sheriff Court.)

No. II.—FORM of ABBREVIATE of INHIBITION included in an Extracted Decree or Warrant of Inhibition, in virtue of a registered Protest on a Bill Bond or other Document.

ABBREVIATE of INHIBITION:—A. [Name and Designation of Inhibitor] against B. [Name and Designation of Debtor].

THE Warrant of Inhibition included in the Extract Decree is in the usual terms, and is dated the day of The Debt is thus described in the Extract Decree: [Here copy so much of the Extract Decree as distinctly describes the Debt.] The Execution of the Extract Decree, including the Warrant of Inhibition, was executed by C. D., Messenger at Arms [or, Officer of the Sheriff Court of D.] against the Debtor [Describe in what manner, by quoting from the Execution], on the day of before a Witness, or two Witnesses; videlicet, [Here insert his or their Name or Names, and Designation.]

(Signed by an Agent of the Court of Session, or Sheriff or Burgh Court.)

SCHEDULE (H.)

TABLE of FEES payable to the Auditors of the Local Courts for auditing Accounts of Expenses of all manner of Legal Execution.

Where the Account of Expenses amounts to One Pound and does not exceed Two Pounds - - - - -	One Shilling
Where the Account of Expenses amounts to Two Pounds and upwards - - - - - - - - -	One Shilling and Sixpence.

SCHEDULE (I.)

FORMS in REMOVINGS.

No. I.—NOTICE.

I, A. B., Proprietor of the Lands or Houses described as follows, (videlicet) [Here insert short Description of the Subjects] possessed by you, C. D., as Tenant thereof, [or, E. F., Agent, or other person mentioned in the Statute acting in behalf of A. B., Proprietor of the said Lands and Houses; DO hereby give you notice, and require you to flit and remove yourself, your Wife and Family, Servants, Cottars and Dependants, Goods and Gear, furth and from the said Lands and Houses and Pertinents possessed by you, and that by Twelve o'clock on the term of Whitsunday next, the Fifteenth day of May next, (or being a Sunday, then on the Saturday preceding, or Monday following, or other term,) and to leave the same void and redd, to the effect the said Proprietor and others in his name may thereafter enter thereto, and peaceably possess and enjoy the same in all time thereafter, with certification. And I further give you notice, that a duplicate of this notice will be called in the Court of Session at Edinburgh, on the expiry of eight days from the date of the service hereof, (exclusive of the date of service and date of calling,) [or six days if in the Sheriff or Burgh Court, at as the case may be,] and Decree of Removing and Ejection to the above effect, and for the Expenses of this Notice and of Process, and of all manner of legal execution thereon, as the same, if required by you before payment, shall be taxed by one of the Auditors of Court, [if in the Court of Session, or the Auditor of Court, if

if in the Local Court,] and certified on the back of the Extract Decree, will then be pronounced against you by the Court of Session, [or the Sheriff or Burgh Court, as the case may be,] unless you then enter appearance in the said Court, and show cause to the contrary; and unless you shall then instantly verify a defence excluding the Action, you must come prepared with a cautioner for violent profits to the extent of the rent to become due for next year, and one-third more thereof; or unless you shall, two days or upwards, previous to the said calling, write and deliver to the said Landlord, or me acting for him, a Letter written on the back of this Notice, obliging yourself to remove from the Premises aforesaid at the said term, without rendering it necessary that any procedure in Court shall follow on this Notice, and in case you shall duly remove yourself and others as aforesaid, at the said term accordingly, no Decree of Removing and Ejection, or for Expenses, will be craved against you. Given under my hand, at Edinburgh, the Twenty-seventh [in the Court of Session, or Twenty-ninth, in the Local Court,] day of March, in the year One thousand eight hundred and Thirty-six, before and in presence of G. H., residenter in Edinburgh, Witness to the Premises.

[Signed by the Person who shall serve the Notice.]

No. II.—DUPLICATE of NOTICE.

I, A. B., do hereby certify, That upon the day of in the year between the hours of Ten and Eleven Forenoon, I [design him] served the Notice of which the following is a Copy. [Here insert a correct Copy of the Notice.] This I did by leaving the said Notice at the Dwelling-house [or, Place of Business] of the said C. D. [or, delivering said Notice to the said C. D. personally], on the day of in the year before and in presence of the said G. H., Witness to the Premises, and hereto with me signing this Certificate.

[Signed by the Person who served the Notice, and the Witness.]

No. III.—EXTRACT DECREE of REMOVAL and EJECTION.

WILLIAM, &c. [where the Notice, Promise or Tack is registered in the Books of Council and Session; or if in the Sheriff or Burgh Court, say: A. B., Sheriff of the Sheriffdom of A. (or, C., D. and E., Magistrates of B.)] sitting in judgment; To Messengers-at-Arms or Officers of Court conjointly and severally.

WHEREAS the Duplicate of a Notice of Removing, A. against B., dated [or, a Stipulation in a Tack, or Promise to remove by A. to B., dated] has been shown to and considered by Our Lords of Council and Session [or me, or us] and in respect thereof Our said Lords decerned and ordained [or, I, or we] decern and ordain the said B. to flit and remove himself, his Family, Servants, Subtenants, Cottars and Dependants, Cattle, Goods and Gear, furth and from [Take the Description of the Subjects from the Notice or Promise or Tack,] and that at and against the term of [from Notice or Promise or Tack,] and then to leave the same void and redd, to the end that the said A., or others in his name, may then enter thereto, and peaceably possess and enjoy the same: And Our said Lords of Council and Session ordained Messengers-at-Arms, [or, I, or we ordain the Officers of said Sheriffdom [or Burgh] or Messengers-at-Arms,] to charge the said B. to flit and remove himself, Family and others foresaid, furth and from the foresaid premises, and that against the said term of [if the charge to remove be given Forty-eight Hours before the term, or if the charge be given on the term day or on the following day, within Twelve Hours after service of the charge to remove], and to leave the same void and redd, to the end that the said A., or others in his name, may then enter thereto, and peaceably possess and enjoy the same, under the pain of ejection; wherein if the

said B. fail, that the said Messengers-at-Arms or Officers summarily eject, remove and put forth the said B., his Family and others foresaid, furth and from the foresaid Premises and Pertinents possessed by him, and keep, hold and detain them furth thereof, and enter and possess the said A., or others in his name, therein, and maintain, uphold and defend them in the peaceable possession thereof, and to cause inventory the hail Goods and Gear so to be ejected: and if needful, to make gates and doors, and other lockfast places open and patent, and use His Majesty's keys for that effect; and that in terms of the Statute thereanent, and laws and daily practice of Scotland used and observed in the like cases in all points.

Extracted by me, one of the Agents of the Court of Session, [or an Agent of the Sheriff or Burgh Court.]

(signed) A. B.

Certified to be correct. (signed) B. C., Examiner of Extracts and Keeper of the Judicial Records of the Court of Session [or Clerk of the Sheriff or Burgh Court.]

[Signed by the Sheriff or Town Clerk.]

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II.

A

B I L L

To improve and regulate the Forms of Process, and diminish the Delay and Expenses of Procedure in the Courts of Judicature in Scotland, and in Appeals from the Court of Session to the House of Lords.

(*Prepared and brought in by Mr. Robert Wallace and Mr. Hume.*)

Ordered, by The House of Commons, *to be Printed,* 26 *June* 1835.

10 *June* 1835.

III.

A

B I L L

To explain and regulate the Jurisdiction of the Sheriff Courts of Scotland, and to transfer the Benefits of Jury Trial in Civil Causes to a limited Amount to the said Courts; also, to regulate the Duties and Appointment of Sheriffs Principal and Substitute, and the Appointment of Procurators Fiscal.

[Note.—The Words printed in *Italics* are proposed to be inserted and the Blanks to be filled up in the Committee.]

WHEREAS it is expedient to explain and regulate the Jurisdiction of the Sheriff Courts in Scotland, and to regulate the Appointment and define the Duties of Sheriffs Principal an Substitute: Preamble.

And whereas, it would be for the evident utility of the subjects within Scotland to transfer the benefits of Trial by Jury to the Sheriff Courts, in certain Civil Causes, to a limited amount, and to give Jurisdiction to the Court of Session and Circuit Courts in relation to certain parts of the Procedure in such Jury Causes before the Sheriff Courts:

And whereas, in consequence of the extension of such Jurisdiction of the Sheriff Courts, and for the purpose of rendering those Courts more useful, it is necessary to regulate the Appointment and Duties of the Sheriffs-Principal and Substitute, the Appointment of Procurators-Fiscal, and the Privileges of the Agents and Counsel entitled to practise in the Sheriff and Local Courts;

I. Commencement of this Act.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by

Repealing certain Acts, in so far as may be inconsistent with this Act.

by the Authority of the same, THAT from and after the day of next this Act shall take effect, and the provisions of the following Acts of Parliament shall be, and they are hereby Repealed, in so far as hereinafter specified; (that is to say,) the following Acts of the Parliament of Scotland: An Act, in the year of our Lord One thousand six hundred and Twenty-one, intituled, "A Ratification of the Act of the Lords of Council and Session, made in July One thousand six hundred and Twenty, against unlawful Dispositions and Alienations made by Dyvours and Bankrupts;" and an Act in the year One thousand six hundred and Ninety-six, intituled, "Act for declaring of Notour Bankrupts," in so far as a privative Jurisdiction in all questions under these Acts is given to the Court of Session, to the exclusion of the Sheriff Courts; and the following Acts of the British Parliament: An Act of the fifty-fourth year of his Majesty King George the Third, intituled, "An Act for rendering the payment of Creditors more equal and expeditious in Scotland," in so far as an exclusive Jurisdiction in awarding Sequestrations, and in questions under that Act, are conferred on the Court of Session, to the exclusion of the Sheriff Courts; an Act of the sixth year of his late Majesty King George the Fourth, intituled, "An Act to regulate the Qualification and the manner of inrolling Jurors in Scotland, and of choosing Jurors on Criminal Trials there, and to unite Counties for the purpose of Trial in cases of High Treason in Scotland;" and an Act of the seventh year of his said late Majesty King George the Fourth, intituled, "An Act to amend so much of an Act of the last Session of Parliament, for regulating the Qualification and Manner of inrolling Jurors in Criminal Trials there, and to unite Counties for the purpose of High Treason in Scotland, and as relates to the Qualification of Special Jurors," in so far as is inconsistent with the present Act; and all other Acts of Parliament shall also be held repealed, which may in any way be inconsistent with or contrary to the Enactments of this Act: Provided, That all the provisions of the said recited Acts of Parliament, in so far as not hereby expressly repealed, and not inconsistent with or contrary to the following Enactments, shall continue in full force, unless repealed or altered by Parliament.

1621, c. 18.

1696, c. 5.

54 G. 3, c. 137.

6 G. 4, c. 22.

7 G. 4, c. 8.

II.

Explanation of Sheriffs' Maritime Jurisdiction.

11 G. 4, and 1 Will. IV. c. 69, s. 22.

AND whereas, by an Act of the eleventh year of his late Majesty King George the Fourth, and first year of His present Majesty, it was enacted, "That the Sheriffs of Scotland, and their Substitutes, shall, within their respective Sheriffdoms, including the Navigable Rivers, Ports, Harbours, Creeks, Shores and anchoring Grounds, in or adjoining such Sheriffdoms, hold and exercise original jurisdiction in all Maritime Causes and Proceedings, Civil and Criminal, including such as may apply to Persons residing furth of Scotland,

of

of the same nature as that heretofore held and exercised by the High Court of Admiralty:" And whereas, doubts have been entertained whether the Sheriff has any jurisdiction in questions of a maritime nature, within his Territory or Sheriffdom, unless the cause of Action has arisen within it, or within an undefined Line on a River, or Frith, or on the High Seas adjacent to his county; BE it Enacted and Declared, That the powers and jurisdiction formerly competent to the said High Court of Admiralty, in Maritime Causes between private Parties, may be exercised by the Sheriff Court, provided that the Defender shall, upon any legal grounds of jurisdiction be amenable to the Sheriff before which the Action is raised, or where an Arrestment of maritime subjects situated within the Sheriffdom of such Sheriff, belonging to the Defender, if he reside in a different Sheriffdom, or to the Defender, if a foreigner, or native of Scotland, who resides furth of Scotland, shall be used to found the jurisdiction.

III. Regulations of the Jurisdiction of the Sheriff Courts.

And be it Enacted, That the following Regulations, being Ten in number, shall fix and establish the jurisdiction of the Sheriff Courts in the matters respectively specified therein:

1. That in any Action, ordinary or summary, before any Sheriff Court aforesaid, in which the sum or value of the subject in dispute shall not exceed *One hundred* Pounds, the Sheriffs, with or without a Jury, as shall be agreed to by the Parties or deemed expedient by the Court, may consider, decide and decern, in all matters, disputes, or questions regarding the validity of any Deed or Writ challenged, under the before recited Acts of the Scots Parliament, in the years One thousand six hundred and Twenty-one, and One thousand six hundred and Ninety-six; and determine, declare, and decern, in all matters, disputes, or questions, with regard to the existence, nature, and extent, of any right of Property, or Servitude, in any lands, subjects, or heritable tenements; provided, that the limitation in amount of such matters of jurisdiction, shall not be construed to abridge, the more extensive jurisdiction in other Causes of the Sheriff Courts, in point of amount or value.

In Challenges of Deeds or Writs, under the Acts 1621, c. 18, & 1696, c. 5, and in rights of Property or Servitude, where the Sum or Value of the subject in dispute is not above 100*l*.

2. That the Sheriff, under the present or any subsequent Bankrupt Act, shall have a cumulative Jurisdiction with the Court of Session in awarding Sequestration of a Bankrupt's whole Estate and Effects, heritable and moveable, real and personal, of whatever description and wherever situated, whether within or beyond the boundaries of his Jurisdiction, within the United Kingdom of Great Britain and Ireland, or elsewhere

Cumulative Jurisdiction of the Sheriff in all Matters in sequestrations of Bankrupt Estates.

elsewhere in the British Dominions, together with all interests and powers in, or created for the benefit of the Bankrupt, or competent to the Bankrupt in any way to exercise, or which he might legally claim or execute for the benefit of his Creditors, and also, a cumulative jurisdiction in granting discharges in favour of Bankrupts on Composition, or otherwise, and discharges of Trustees; which Sequestrations and Discharges shall be as effectual as if the same were awarded or granted by the Court of Session; and also a cumulative Jurisdiction in general in every matter, dispute, or question, which may arise in all Sequestrations, whether awarded by the Court of Session or the Sheriff: Provided, That the Proceedings in the said Sheriff Courts, in all Causes, under the present or any other Bankrupt Act, competent to such Courts, shall be summary, and carried on during Sessions, Vacations and the Christmas Recess, and according to the regulations, or as nearly as possible, observed in the Court of Session in the same class of Causes; and the Judgments of the Sheriff in such Causes shall be subject to the review of the Inner House of any of the Divisions of the Court of Session, by a short reclaiming Note, boxed and lodged, within *Twenty-one* Days of the date of the Sheriff's judgment, without caution or consignation.

Privative Jurisdiction of the Sheriff in Sequestrations.

3. That the Sheriff shall have a Privative Jurisdiction in the first instance, in the examinations of all Bankrupts, whose Estates have been sequestrated under the present or any other Bankrupt Act, either by the Court of Session or the Sheriff, and of the Families or other Persons, connected with the affairs of such Bankrupts; and the Sheriff shall also have a Privative Jurisdiction, in the examination of the granters of all private or extrajudicial trusts for behoof of Creditors, and the families or other Persons connected with the affairs of the granter of such Trusts, where necessary, and required by the Trustee, or any of the Creditors acceding to such Trusts.

Examination of the Granters of Private Trusts.

Cumulative Jurisdiction in Processes of Cessio Bonorum.

4. That in Processes of Cessio Bonorum, the Sheriff Courts shall have a cumulative Jurisdiction with the Court of Session, and the Pursuer of the Action may raise it, either before the Court of Session, or before the Sheriff Court in the Jurisdiction of which he resided at the period of his receiving a charge of payment or of incarceration: Provided, That the incarcerating or detaining Creditor, or his Mandatory, where such Creditor resides furth of Scotland, shall be cited on an Induciæ of *Eight* Days, and if such Creditor, or his Mandatory,

datory, shall not reside within the Jurisdiction of the Sheriff Court, he shall be cited, in virtue of a Writ of Supplement or Warrant of Concurrence of the Sheriff Court in whose Jurisdiction he may reside, and on the same Induciæ of *Eight* Days; and the other Creditors of the Pursuer shall not be cited in the usual manner in the Action, but, in place thereof, the Pursuer shall be bound to send by Post, a Letter, properly addressed to each Creditor, whether residing in England, Ireland or Scotland, containing a notice of the date of appearance, and the day, hour and place, where a meeting of his Creditors is to be held, which Letter shall be marked, or printed on the back "CESSIO INTIMATION," and shall not be chargeable with postage, provided, that both ends of such Letter shall be left open; and the proceedings in Processes of Cessio Bonorum before the Sheriff Courts, shall be summary; and the Pursuer and his Creditors, and the Sheriff Courts, shall, as far as possible, observe all the regulations, and be entitled to all the powers and privileges exercised and observed by a Pursuer and his Creditors, in the Court of Session, in Processes of Cessio Bonorum instituted before the Court of Session; provided, that the Judgment of the Sheriff Court in Processes of Cessio Bonorum, shall be subject to the review of the Inner-House of any of the divisions of the Court of Session, by a short reclaiming Note, lodged and boxed, within *Twenty-one* Days from the date of the Sheriffs' Judgment, without caution or consignation; and further provided, that whether the Judgment of the Sheriff shall be brought under review, as aforesaid, or not, such Judgment may be extracted forthwith; but if, before extract, the Defenders intimate to the Pursuer, or his Agent, their intention to bring the Judgment under the review of the Court of Session, the Debtor on finding caution in the Sheriff Court to remain in Scotland till the reclaiming Note be disposed of by the Court of Session, or on failure thereof, to pay the Debt for which he is incarcerated, shall be liberated in the meantime.

Judgments of the Sheriff Courts in Processes of Cessio Bonorum, subject to review of Court of Session.

5. AND whereas, by an Act of the eleventh year of his late Majesty King GEORGE the Fourth, and the first year of His present Majesty, intituled, "An Act for uniting the benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland," it was enacted, That the Jurisdiction of the Commissary Court of Edinburgh should be restricted, and in so far, should entirely cease as therein mentioned, and

Consistorial Actions (except Actions of Divorce) extended to County Commissary Courts. 11 G. 4, and 1 Will. IV. c. 69 s. 31 & 33.

that all Actions of declarator of Marriage, and of nullity of Marriage, and all Actions of declarator of Legitimacy and of Bastardy, and all Actions of Divorce, and all Actions of Separation a mensa et thoro, should be competent to be brought and insisted in only before the Court of Session: AND whereas, it would be in accordance with Justice, and for the evident advantage of Scotland to extend the Jurisdiction of the late Commissary Court in Consistorial Causes to the Commissary Courts in each Sheriffdom of Scotland, except in Actions of Divorce; BE it Enacted, That all Consistorial Actions, (except Actions of Divorce), comprehending Actions of Declarator of Marriage, and Actions of Declarator of Marriage adherence, legitimacy and aliment, and Actions of Declarator of Marriage and adherence on the head of wilful desertion, (but excepting Actions of Divorce for wilful desertion), Actions of Declarator of Bastardy and Legitimation, Actions of Separation a mensa et thoro, Actions of Declarator of Freedom from Scandal and for putting to Silence, and Actions of Slander and Defamation, may be instituted, insisted in before, and determined, by the said Commissary Courts in each Sheriffdom, as well as by the Court of Session; provided, that such Actions, with the exception of Actions of Slander, Scandal and Defamation, shall not be considered as appropriate to Jury Trial; but, parties may agree, or the Sheriff, as Commissary, may direct, that any such Cause, or any Issue or Issues of fact connected therewith, be tried by Jury in the Sheriff Court; and that when judicial declarations, or examinations of havers for recovery of writings, or a proof in any such Cause shall be allowed in such Commissary Courts, the same shall be taken by the Sheriff, as Commissary, where the parties, havers or witnesses reside within his Jurisdiction, or can be brought to be examined before him; and where such parties, havers or witnesses reside beyond his Jurisdiction, or cannot be brought to be examined before him, he may remit to the Sheriff, as Commissary, within whose Jurisdiction they may reside, to take, in like manner, their declarations or depositions; and further provided, that the Judgment of the Sheriff, as Commissary, in such Consistorial Actions, shall be subject to the review of the Inner-House of the Court of Session by a short reclaiming Note to the Inner-House of any of the Divisions of the Court, lodged and boxed, within *Twenty-one* Days of the date of the Judgment, without caution or consignation.

Judgment of Sheriffs, as Commissaries, subject to review of Court of Session.

Sheriff Courts competent in

6. That the Sheriff Court shall have a cumulative Jurisdiction with the Court of Session in all Actions of Adjudication, where

where the whole, or the greatest part of the lands, sought to be adjudged, lie within the Jurisdiction of the Sheriff Courts, wherever the debt for which the lands are sought to be adjudged, exclusive of interest and expenses, does not exceed the sum of *One hundred* Pounds; provided, that the Sheriff Courts shall observe, as nearly as possible, the Regulations in the Court of Session with regard to Adjudications; and the judgment of the Sheriff in processes of Adjudication, shall be subject to the review of the Inner-House of any of the Divisions of the Court of Session, by a short reclaiming Note lodged and boxed, within *Twenty-one* Days of the Judgment, without caution or consignation, and the Extract Decree of Adjudication shall be signed by an Agent of Court, and shall be recorded in the General Register of Sasines; and which Extract Decree of Adjudication shall have every other force, power, privilege and effect, as if the same had been pronounced by the Court of Session.

Adjudications for Debts not exceeding 100*l.*

Decree to be recorded.

7. That the Sheriff Court, (in the jurisdiction of which the Debtor resides in the ordinary case, or the Sheriff Court which may be nearest to the residence of the greatest number of the Debtors, where they reside in different jurisdictions, or where there are two Debtors, each residing in a different jurisdiction, the Sheriff Court in whose jurisdiction either of such Debtors resides), shall have a cumulative jurisdiction with the Court of Session where the sum or subject in dispute does not exceed the sum of *One hundred* Pounds exclusive of interest and expenses, to sist, and ultimately to suspend, the execution of Diligence on extracted Decrees in absence of the Sheriff or other Courts within the jurisdiction of the Sheriff, on payment to the opposite party or his agent, of the taxed expenses of Extract, and of all manner of legal execution thereon, (except of arrestment or inhibition), or failing thereof, on consignation in the hands of the Sheriff Clerk of the sum of *Two Guineas*, to be applied, by him, in payment of such expenses so soon as the same shall be taxed; and if such expenses be less than the sum consigned, the balance shall be returned to the Suspender or his Agent; but, if such expenses exceed said consigned sum, the Sheriff shall grant an Interim Decree for the difference and the expenses of extract, and all manner of legal execution thereon; and the Sheriff shall also have a cumulative jurisdiction with the Court of Session to sist, and ultimately to suspend, Warrants and Charges in virtue thereof, following on Protests on Bills of Exchange

Sheriffs to grant Sists and Suspension of Diligence, where Debt does not exceed 100*l.*

and Promissory Notes, or other personal obligations, registered in the Books of Council and Session, or of the Sheriff or Burgh Courts, where the sum in dispute shall not exceed the sum of *One hundred* Pounds sterling exclusive of interest, upon caution, or juratory caution, or upon consignation being found, or made prior to the service of the said Writ, in the said Sheriff Courts to the extent of the sum charged for, and *Ten* Pounds towards the expenses of Process, and extracting and recording the Decree, and of all manner of execution, whatever the amount of such expenses may be, if found due; and all such Processes of Suspension shall be summary; and the Diligence or Warrants shall either be sisted in the first instance, or afterwards suspended, or allowed to proceed, in whole or in part, in the same way and to the same effect, as is, or may be effectual under Suspensions in the Court of Session; and the procedure in such cases of Suspension shall be the same as in the Court of Session in similar causes; provided, that where the Charger makes appearance in such cases of Suspension before a Sheriff Court in the jurisdiction of which he does not reside, such Charger shall be thereby held subject to the jurisdiction of such Court; and the Decree and Warrant of such Court shall and may be enforced against him by a Warrant of Concurrence, by the Sheriff Court in whose jurisdiction such Charger may reside.

Cumulative Jurisdiction granted to Sheriff Courts in Complaints and Actions against Messengers-at-Arms and their Cautioners, for malversation and damages.

8. That the said Sheriff Courts shall have a cumulative Jurisdiction with the Court of the Lord Lyon, and may take cognizance of, and try and determine all actions or complaints against Messengers-at-Arms and their Cautioners, for malversation, misconduct or negligence in their office, concluding against the Messenger not only for a fine not exceeding *Ten* Pounds, but against him and his Cautioners for expenses of Process and Extract, and of all legal execution thereon; and the Sheriff may punish such Messengers for such malversation, misconduct or negligence, by such fine, not exceeding *Ten* Pounds, as he shall modify and decern for; and may find him and his Cautioners liable in the expenses of such process and dues of extract, and the expense of all legal execution, at the instance of any Person who shall suffer damages by the malversation, misconduct, negligence, or false, fraudulent, or informal executions of such Messengers, with or without the concurrence of the Procurator Fiscal of Court; and the said Sheriff Courts shall also have a cumulative Jurisdiction with the Court of Session, and may try by Jury or otherwise, and pronounce Judgment in all actions of damages at the instance

instance of parties who have suffered by the negligence or misconduct of Messengers-at-Arms, against such Messengers-at-Arms and their Cautioners, where the amount of such damages shall not be concluded for in the action to a greater amount than *One hundred* Pounds, exclusive of expenses of process and dues of Extract; and all such complaints or actions shall be raised and conducted, and a record therein prepared and closed, and tried, and judgment pronounced in the same manner as in ordinary actions before the said Sheriff Courts; provided, that Parties shall have it in their option to raise an action or complaint against such Messengers and their Cautioners, concluding either for a fine or damages, but not for both, and only one action; Provided, that every Messenger-at-Arms shall, ex officio, be a Sheriff Officer, and shall, within *One* Month from the commencement of this Act, find sufficient caution in the Sheriff Court Books in which he resides, to the extent of Pounds, that he will faithfully discharge his duty as a Sheriff Officer; and every Messenger who may fail to find such caution shall be, and is hereby prohibited from acting either as a Messenger or a Sheriff Officer; and every Messenger who finds caution as a Sheriff Officer aforesaid, as well as Agents or Officers of the Sheriff Court, may execute Writs or Summonses, including Arrestments and Inhibitions, and all other Warrants of Diligence under the authority of the Sheriff Court.

Messengers-at Arms to be ex-officio Sheriff Officers.

9. That in all cases where a Debtor is made legally Bankrupt, and his heritable property does not exceed in value the sum of *One thousand five hundred* Pounds sterling, or *One hundred* Pounds as the annual rent thereof, the Debtor himself, or any Creditor, or any *Two* or more Creditors holding Debts liquidated and constituted by decree, bill or bond, having a clause of registration to the amount of *Fifty* Pounds, may apply to the Sheriff of the county in which the property lies, by petition, for authority to sell the Debtor's heritable property, as named and described in the title-deeds, and that the price may be divided amongst his real and personal Creditors, according to their preferences and rights in terms of law; and all parties shall, in such proceeding, in so far as may be directed by the Principal Sheriff or his Substitute, observe the regulations provided in cases of Judicial Sales and Ranking before the Court of Session.

Judicial Sale of Subjects of small Value, and Ranking.

PROCEDURE IN SALES by Creditors under Powers of Sale in Heritable Securities.

10. That where any Heritable Property is burdened with Heritable Securities containing powers of sale, and the Proprietor is made legally Bankrupt, the Proprietor, or, on his death, his heir-at-law, having attained majority, or any creditor holding an Heritable Security with a power of sale, may apply by petition to the Sheriff Court in the jurisdiction of which the Heritable Property lies, against all the Heritable Creditors having interest in such property, where the petition is at the instance of the Proprietor or his heir, or against such Creditors and the Proprietor or his said heir, where the Petition is at the instance of a Creditor, and praying the Sheriff to take a superintendence of the sale; and in the event of all parties not agreeing in suggesting a proper person to the Sheriff to be appointed common Agent in the sale, the Sheriff shall appoint a disinterested person as common Agent to conduct the sale, settle the terms and notices, complete the titles and articles of roup, superintend the Sale, and see the price duly consigned in a chartered Bank, or caution for the price found, and the price divided among the Heritable Creditors and the Proprietor or his heir, according to their respective rights and interests; and the Petitioner or Petitioners shall set forth shortly, in a separate declaration, the facts on which the Petition is founded; and on the Petition being duly served by a Messenger-at-Arms, or Officer or Agent of Court, and the elapse of the Induciæ, the Sheriff shall appoint the Person suggested by all parties as common Agent, or failing thereof, a disinterested Person of his own choice, as common Agent aforesaid; provided, that if the Petition be at the instance of the Bankrupt, the property shall not be put up to be sold for a sum less than is sufficient to pay all the Heritable Creditors, unless with the consent of two-thirds of the Heritable Creditors; and if the Petition be at the instance of a postponed Heritable Creditor, the property shall not be exposed to sale for a less sum than is sufficient to pay all the prior Heritable Creditors, without the consent of all the prior Heritable Creditors:" And provided, That if the Sale be regularly proceeded with, the Purchasers shall be answerable only, for the amount of the price.

IV.

JURISDICTION OF SHERIFF COURTS IN JURY CAUSES to a limited amount.

And be it Enacted, That in all Causes appropriate to Jury Trial, as hereinafter described and enumerated, the said Sheriff Courts shall have a cumulative Jurisdiction with the Court of Session for trial by Jury, where the sum or subject matter in dispute does not exceed *One hundred* Pounds, in amount or value, and is not less

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less than *Ten* Pounds sterling, and is concluded for in the Writ or Summons accordingly; and such cumulative Jurisdiction in Jury Causes shall form part of the ordinary administration of Justice in the Sheriff Courts.

V. Reclaiming Note in place of Advocations in Jury Causes above 100*l*. 6 Geo. 4, c. 120, s. 40.

AND whereas, by an Act of the sixth year of his late Majesty King George the Fourth, intituled, "An Act for the better regulating of the Forms of Process in the Courts of Law in Scotland," it was provided, that in all Causes originating in the Inferior Courts in which the Claim is in amount above Forty Pounds, it should be competent to either Party, who might conceive that the Cause ought to be tried by Jury, to remove the Process into the Court of Session; and by an Act of Sederunt of the Lords of Council and Session and Lord Chief Commissioner in Jury Causes, dated Eleventh July One thousand eight hundred and Twenty-eight, a certain form of Advocation was prescribed; and it is expedient to extend the provisions of the said Act of Parliament and Act of Sederunt, and to repeal so much of the said Act of Sederunt as is hereinafter specified; BE it Enacted, That the provisions of the before-recited Act and Act of Sederunt shall be extended and apply to all Jury Causes originating in the Sheriff Courts, in which the sum in dispute, or the Claim is in amount or value above *One hundred* Pounds sterling; but in place of a Bill of Advocation, a short re-reclaiming Note against the Interlocutor of the Sheriff Court shall be used for the purpose of trial by Jury in the Court of Session; and that so much of the said recited Act of Sederunt, as prescribes the form of Advocation, shall be, and is, hereby repealed.

A. S. 11 July, 1828. s. 5 and 6.

VI. Extended Jurisdiction of Sheriff Court, by Consent.

And be it Enacted, That if both Parties shall agree by a judicial Minute signed by them or their Agents, and duly intimate the same the Sheriff-Principal or Substitute shall have power to try, by Jury or otherwise, any action in which the sum sought to be recovered amounts to more than *One hundred* Pounds, although not within the ordinary jurisdiction of the Sheriff Court, and either of the said Sheriffs shall have jurisdiction and full power to try such action: Provided always, That the said Parties, or their Agents, shall state in the said Minute that they know the sum, or subject in dispute, exceeds in amount or value *One hundred* Pounds, and that the matter is not within the ordinary jurisr-diction of the said Sheriff Court, and that they renounce the liberty of obtaining the review of the final Judgment to be pronounced by the Sheriff, by the Court of Session, and The House of Lords, as to any matter of fact, law or equity in such action.

VII. Value to be averred.

And be it Enacted, That where in any of the said actions competent to be brought into the Sheriff Courts, the claim or subject

matter in dispute shall not be simply pecuniary, so that the value might not appear, unless stated, the Pursuer shall in his declaration solemnly aver the true value of the claim or subject-matter in dispute; and if the Respondent deny the averment, the Sheriff shall decide and dispose of the question in the same summary manner as in the case of a dilatory Answer or Defence.

VIII. Description and Enumeration of Causes appropriate to Jury Trial.

And be it Enacted, That the following actions shall be held causes appropriate to Jury Trial, and within the jurisdiction of the said Sheriff Courts, to the limited extent above provided, notwithstanding of any law or practice to the contrary; namely, all Actions on account of Injury to the Person, whether real or verbal, as Assault and Battery, Libel, Scandal or Defamation; all Actions on account of any Injury to Moveables, or to Land, when in this case the title is not in question; all Actions for Damages on account of Breach of Promise of Marriage, or on account of Seduction or Adultery; all Actions founded in Delinquency or quasi Delinquency of any kind, where the conclusions shall be for damages only and expenses; all Actions on the responsibility of Shipmasters and Owners, Carriers by Land or Water, Innkeepers or Stablers, for the safe custody and care of goods and commodities, horses, cattle, sheep and the like, money, clothes, jewels and other articles, and in general, all Actions grounded on the principle of the Edict Naute Caupones Stabularii; all Actions brought for Nuisance; all Actions for Reduction on the head of Furiosity and Idiotcy, or on Facility and Lesion, or on Force and Fear; all Actions on a Policy of Insurance, whether for Maritime or Fire or Life Insurance; all Actions on Charter Parties and Bills of Lading; all Actions for Freight; all Actions on Contracts for the carriage of Goods by Land or Water; and all other Actions that may be competently brought before the Sheriff Courts, in which matters of fact are disputed, and which shall appear to the Sheriff to be appropriate for Jury Trial.

IX. Rules of Procedure in Jury Causes.

And be it Enacted, That the following Rules shall be observed in all cases of Trial by Jury in the said Sheriff Courts:

Sheriff may summon a Jury, and try any Jury Cause, and Trial may proceed before the Sheriff-Principal or Substitute.

1. That the Sheriff may summon a Jury, and try any competent Cause, appropriate to Jury Trial, in which Issues shall have been prepared, and the Record closed as hereinafter provided; and the said Issues shall be tried before the Sheriff or his Substitute.

Such Jury Causes to continue in Sheriff Court till Verdict be obtained.

2. That all such actions appropriate to Jury Trial shall be tried and discussed by Jury before any of the said Sheriffs, and the same shall continue in the said Sheriff Court, without being subject to be brought under review of the Court of Session

Session by Advocation, Suspension, Reduction or otherwise, until the verdict of a Jury be first obtained in the Sheriff Courts, except in the case of Interlocutory Judgments, as regulated by an Act of the fiftieth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for abridging the Form of extracting Decrees of the Court of Session in Scotland, and for the Regulation of certain parts of the Proceedings of that Court;" and all Proceedings for the correction of Errors, or Injustice alleged to have been committed in the trial of a Jury Cause, and all questions reserved for discussion after trial, and all questions relating to the application of the verdict, or the rights and interests arising therefrom, and all questions of expenses, shall proceed in the first instance, and until final Judgment before the said Sheriff Courts.

50 G. 3, c. 112, s. 33, 35, 36, 37 and 40.

3. That every Juror at the time of the trial on which he may be required to serve, (except as hereinafter excepted,) who shall be of an age between *Twenty-one* and *Sixty* years and resides in any county or stewartry in Scotland, and is qualified to serve, (in terms of an Act of the sixth year of the reign of her Majesty Queen ANNE, intituled, "An Act for settling and establishing a Court of Exchequer in the north part of Great Britain called Scotland," and of an Act of the sixth year of his late Majesty King GEORGE the Fourth, intituled, "An Act to regulate the qualification and the manner of inrolling Jurors in Scotland, and of choosing Jurors in Criminal Trials there, and to unite counties for the purposes of Trial on cases of High Treason in Scotland,") shall be qualified and shall be liable to serve as Common Jurors in any Sheriff Court in Scotland, Civil or Criminal.

Qualification of Common Jurors in Counties.

6 Anne, c. 26.

6 Geo. 4, c. 22.

4. That the qualifications of Special Jurors liable to serve on Special Juries, or on Special and Common Juries in the Sheriff Courts in Civil Causes, shall be the same as the qualification of Special Jurors liable to serve on Special Juries in Civil Causes before the Court of Session, as described in the said recited Act of the fifty-fifth year of his Majesty King GEORGE the Third, and in an Act of the seventh year of his late Majesty King GEORGE the Fourth, intituled, "An Act to amend so much of an Act of the last Session of Parliament, for regulating the qualification and manner of inrolling Jurors in Scotland, and of choosing Jurors in Criminal Trials there, and to unite Counties for the purposes of Trial in cases of High Treason in Scotland, and as relates to the qualification of Special Jurors;" and the

Qualification of Special Jurors.

55 G. 3, c. 42.

7 G. 4, c. 8.

Lists of Jurors in Counties, to be subdivided into Wards or District. 6 Geo. 4, c. 22.

Sheriff Clerks of counties shall subdivide their Lists of Jurors made up in terms of the said recited Act of the sixth year of his late Majesty King GEORGE the Fourth, in order that there shall be separate Lists for each ward, or district, into which any county shall, or may be subdivided; and Jurors, Special or Common, shall not be required to serve out of the ward, district or division in which they reside, in any trial, civil or criminal, before the Sheriff or his Substitute; provided, that with respect to trials before the High Court of Justiciary or Circuit Courts, the Lists shall remain as at present for the entire county; declaring that service as a Juror before the Sheriff, shall continue to be reckoned with regard to exhausting the general List, the same as service before the Courts of Justiciary or Circuit Courts.

Who shall be exempted from being returned or serving on Juries in Sheriff Courts. 6 Geo. 4, c. 22, s. 2.

5. That all the Persons specially freed and exempted from being returned and serving upon Juries, described in the said Act of the sixth year of his Majesty King GEORGE the Fourth, shall be freed and exempted from serving on Juries in Civil or Criminal Causes before the said Sheriff Courts.

Issues.

6. That when the Declarations and Answers are finally adjusted, and before closing the Record, a special interlocutor shall be pronounced by the Sheriff, directing the Pursuer to lodge the Draft Issues in writing; and where it is necessary that there should be Issues on the part of the Respondent, that the Respondent shall do the same.

To be finally adjusted by Sheriff.

7. That the Sheriff shall take into consideration the Issues so lodged, together with the Declaration and Answers, and shall finally settle the same by conference with Parties, or their Agents, at his chambers.

Record to be closed.

8. That when the Issues are finally settled by the Sheriff, the Record shall be closed and authenticated.

Parties to be allowed Six Days to determine whether Matters of Fact shall be tried by a Jury, or by the Sheriff without a Jury. If Parties consent, or Sheriff determine to try the Cause by Jury, the Trial to proceed.

9. That so soon as said Issues are settled and signed, and the Record closed, the Parties shall have *Six* Days to consider and say, whether they desire to have the matters of fact tried by a Jury, or by the Sheriff without a Jury, according to the former practice; and in all cases where both Parties have recorded in writing their consent, or the Sheriff shall determine to try the same by a Jury, the same shall be tried by a Jury in manner hereinafter provided.

Notice of Trial.

10. That as soon as the Parties, or the Sheriff, shall have fixed that a Cause shall be tried by Jury, the Pursuer shall give notice of trial to the Respondent, and to the Sheriff Clerk *Ten* Days

Days previous to the trial; and if the Pursuer omit to give notice of trial for *Ten* Days previous to the time that a Jury Trial should take place, or after giving notice countermands the same, and does not renew his notice within *Ten* Days after such countermand, the Respondent thereafter may give notice of trial to the Pursuer *Ten* Days previous to the trial: Provided always, That in case a Pursuer countermands the notice of trial, it shall be competent for the Sheriff to fix the time of trial upon an application by the Respondent; but nothing herein contained shall prevent the Respondent, (as soon as he receives notice of trial from the Pursuer) also giving notice of trial, provided, such notice of trial is for the same time and place as that given by the Pursuer.

Countermand of Notice.

11. That where a Party shall intend not to proceed to trial pursuant to notice, he shall serve a countermand thereof upon the opposite Party, or his Agent, and lodge a copy thereof with the Sheriff Clerk; and the Party served with the countermand shall be entitled to the whole amount of expenses incurred by him in the preparation for the trial of the cause, in so far as such preparation shall have been occasioned by such notice of trial, and is not serviceable for the trial of the Cause when it may take place; and when a Cause is abandoned before trial, such expenses shall be allowed as shall appear to the Sheriff to be ample and sufficient to cover the whole sums justly incurred.

Sheriffs to issue Writ for summoning Jurors.

12. That the Sheriff shall issue his order to the Sheriff Clerk *Two* Weeks at least, before the day of trial, to make up a List, containing number of Persons from the present Jury List of the county, who shall afterwards be summoned by Writ of the Sheriff, to attend, on the day and hour fixed for such trial, to serve as Jurymen, and from which number there shall be chosen by Ballot, in open Court, in presence of the Parties, or their Agents, Persons to act as Jurors on said trial; and should any other Causes stand for trial on the same day, the Jurors so balloted may also continue to act as Jurors in such Causes, without again being balloted, should none of the Parties or Jurors object: Providedalways, That Jurymen shall be bound to remain, and be liable to serve so long as any Causes remain untried, and until regularly discharged by the Judge; and no Person shall be summoned above *Once* in the year, unless every other Person in the List of Jurors of the county has been previously summoned, and shall have served on a Jury in a Civil or Criminal Cause; and every Person so summoned, who shall not attend and shall not make lawful excuse, shall be fined by the Sheriff aforesaid,

Default of Jurors.

aforesaid, on production of the execution of service, in a sum not exceeding *Five* Pounds, besides being specially summoned on the next ensuing trial.

Where a sufficiency of Special Jurors cannot be obtained, the deficiency for any Trial may be made up from the List of Common Jurors.

13. That in Trials by Jury before the Sheriff Courts, the Jurors shall in general be taken from the Lists in manner provided for by the said recited Acts, but with power to Sheriffs to make up the whole number of Jurors for any trial from the "List of Common Jurors," where a sufficiency of Special Jurors are not to be had in the county or ward thereof, unless where a motion has been made in manner hereinafter provided, either for a Special Jury, or a Jury formed partly of Special and partly of Common Jurors.

Special Jury, or Jury partly Special and partly Common.

14. That where either Party intends to apply for a Special Jury, or a Jury consisting of one-third of Special Jurors and two-thirds of Common Jurors, notice of motion for that purpose must be intimated to the opposite Party, and lodged as aforesaid, within *Four* Days after giving or receiving notice of trial; and the Sheriff Clerk, as soon as a Special Jury, or a Jury partly of Special Jurors and partly of Common Jurors, as aforesaid, is ordered, shall take from each of the Lists of Special and Common Jurors, in the order in said Lists, the Names of Persons qualified to be Special Jurymen, or Special and Common Jurymen, in the proportions aforesaid.

Reducing Jury.

15. That the Sheriff Clerk, on making up the List of the names, out of which Special Jurors, or Special and Common Jurors, in the foresaid proportions, or Common Jurors, shall be chosen as aforesaid, are to be balloted, shall give Hours notice to the Parties or their Agents to attend at his office at a time to be specified, to reduce the Jury, and that this shall be done in presence of the said Sheriff Clerk; and after the Jury is reduced to , Writs shall be issued for summoning the same, and the Sheriff Clerk shall write the name of each Juryman on a separate piece of paper, all the pieces being of the same size, and put them rolled up into the balloting-box.

Challenges.

16. That the said Jurors shall be called at the trial in the order in which they are drawn by Ballot until shall be admitted to serve as Jurors on the trial without challenge, each Party having power peremptorily to challenge, without assigning any cause, of the Special Jurors, and when the is composed partly of Special and partly of Common Jurors, each of Special Jurors, and each of Common Jurors; and where the is composed entirely of Common

Common Jurors, each of such Common Jurors, the challenges for cause assigned (if any) being first made respectively: but provided, that it shall be no bar to proceeding to trial, that the whole number of Jurors cited have not attended; and if there should not be Persons attending, or against whom no objections have been allowed, it shall and may be lawful for the Sheriff to order the requisite number of Persons from among the by-standers to be summoned by the Clerk of Court, and set on the Jury, subject to any objections which may be made for causes assigned, except for qualification or want of summons; and in case any Person so summoned and added to the said List of Jurors, and who shall have been present at that time, shall be called and not appear, or after appearance shall wilfully withdraw from the said service, then the said Sheriff shall and may set a fine upon every such Person making default, or wilfully withdrawing himself, such fine not exceeding the sum of *Five* Pounds sterling, nor less than the sum of *Forty* Shillings, as the Sheriff shall think reasonable.

View of the Premises.

17. That when either Party shall intend and desire that a view shall be had of the houses, lands, or any other places or things in question, the Party, or his Agent requiring the same, shall give notice to the Agent of the other Party of the intended application, which notice must be intimated and lodged as aforesaid, within Days after giving or receiving notice of trial.

Witnesses bevond Jurisdiction, or infirm.

Commission

18. That when it shall be made out to the satisfaction of the Sheriff, that a Witness resides beyond the jurisdiction of the Court, and is not likely to come within its authority before the day of trial, or cannot attend on account of age, severe and protracted or permanent infirmity, or is obliged to go into foreign parts, or shall be abroad and not likely to return before the day of trial, it shall be competent, if the Court shall so determine, to examine such Witness by Commission, or Interrogatories, to be settled by the Parties, and approved of by the Sheriff; and it being established at the trial to the satisfaction of the Court that such Witness cannot attend, owing to one or other of the causes aforesaid, or some other good and sufficient cause, the evidence so taken may be competently read to the Jury, subject to all just objections to its admissibility; and in all cases where a Commission is granted on the application of one Party for examining Witnesses as aforesaid, the other Party may propose Cross-Interrogatories to such

Witnesses, to be settled as aforesaid; and in addition to the Interrogatories so settled, the Commissioner, on the suggestion of either Party, or his Agent, may put such additional questions to the Witnesses as may appear to him to be necessary, taking care to distinguish the questions so put by him from those sent to him; and when one Party obtains a Commission to examine Witnesses, and does not use the evidence obtained under the Commission, the Party not applying for the Commission may demand and obtain for use the evidence given under it at the trial, provided he shall pay one-half of the expense of the Commission, and provided he shall satisfy the Court at the trial that he could not bring the Witness or Witnesses whose evidence he proposes to produce and read; but the depositions taken on Commission shall not be used, if the Witness so examined shall afterwards be brought forward at the trial.

Plans and Productions, and Writings to be lodged before Trial.

19. That all Plans, Maps, Models, or other such productions proposed to be used at a trial, and all Writings which were not in the possession of a Party before the Record was closed, and which he means to put in evidence at the trial, must be lodged with the Sheriff Clerk *Eight* Days before the trial, and at the same time notice of such lodgment shall be formally given, as soon as possible, by the Party lodging the productions to the opposite Party, otherwise they shall not be admitted as evidence at the trial; but nevertheless the Court may permit such productions to be given in evidence at the trial, on cause shown, to the satisfaction of the Court, why the same could not be lodged in due time, and that the opposite Party has had notice given, as early as possible, of the particular productions proposed in such case to be exhibited.

Production of the Original of any registered Deed or Evident.

20. That in case it shall be deemed necessary by either of the Parties that the original of any registered Deed or Evident, or any Process depending, or that may have depended in any other Court should be lodged in Process, the Party may apply to the Court of Session for a Warrant to authorize and direct the Lord Clerk Register, and his Deputies, or the Party may apply to the Sheriff of any other county, where the original of any registered Deed, or Evident, or any Process depending, or that may have depended, may be, for a Warrant to authorize and direct the Keeper of the Register, in whose custody the Deed or Evident, or Process is preserved, or the Clerk of any Court before which such Process is depending, or may have depended, to deliver up the same to the Agent acting for the Petitioner, in order to be produced

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duced at the trial upon delivery of the Warrant, and a proper receipt, and sufficient obligation, to the satisfaction of the Court, for re-delivery after the trial; and provided that such application has been intimated to the opposite Party, and also to the Lord Clerk Register and his Deputies, or the Keeper of such other Register, or the Clerk of such Court, Days before such application is made, it shall be competent to the Court of Session, or the Sheriff, or Magistrates and their Assessor, as the case may be, if they shall see cause, to grant such Warrant, in such terms, and under such conditions, and qualifications, as may seem necessary; provided, that where the Register is kept within the jurisdiction of the Sheriff, in which the trial is to take place, the said Petition may be presented to the said Sheriff, and on being duly intimated, the Sheriff, if he shall see cause, shall have power to grant such Warrant, and under such conditions and qualifications as may seem necessary.

Admissions.

21. That when Parties shall be disposed to make admissions in regard to matters of fact, or a claim of damages, and to admit the authenticity of writings, in order to save the expense of proving the same at the trial, a note of the Admissions shall be taken down in writing, authenticated by the Sheriff Clerk, and signed by the Party or his Agent; and all Admissions so made and authenticated may be read in evidence at the trial; and the Party in whose favour the said Admissions shall be made, if he aftewards obtain a verdict, shall not be entitled to any costs incurred by him, in or towards the proof of the matters or writings so admitted, after the time the said Admissions were made.

Process and Productions to be returned before Trial.

22. That all Processes and Productions borrowed must be returned back to the Sheriff Clerk, *Two* Days at least before the trial of the Cause.

Roll of Causes to be tried.

23. That a regular Roll shall be made up for each day of trial during the Session, and for the Sittings in the Christmas Recess, or Vacations, of all Causes in which notice of trial has been given, and of Causes set down for trial by consent of Parties, and by leave of the Sheriff, and of which Roll a copy shall be exhibited on a patent place of the walls of the Court House for *Three* Days before and during the Trials; and the Causes so set down for trial shall be tried in the order in which they stand on the said Roll, unless good reason for altering the place of the Cause on the Roll, or for postponing the trial, shall be shown to the Sheriff; and the expense of such

postponement shall be borne by the Party applying for the same, and be ordered by the Court, unless good cause be shown to the contrary.

Putting off Trial.

24. That until the Jury is impannelled and sworn to try a Cause, either Party may apply to put off the trial on account of the unavoidable absence or sickness of a material witness, or for other sufficient cause to the satisfaction of the Court, upon payment of such expenses as shall be incurred by the opposite Party in consequence of delaying the trial; but if the inability of a material witness to attend at a trial, or any other cause for putting it off becomes known to the Party, whether in or out of the Session, the motion to put off the trial must be made as soon as possible, by notice to the opposite Party, and a copy thereof lodged as aforesaid.

Trial in Absence.

25. That before a trial is allowed to proceed in absence of a Party, the Sheriff presiding at the trial must be satisfied that due notice of trial has been served upon the Party, or on his known Agent.

Procedure at Jury Trial.

26. That the procedure at the trial of any Jury Cause before the Sheriff shall be the same, in point of form, as a trial by Jury of a Cause before the Court of Session.

Report of Evidence, in case of intimation of a Motion for New Trial.

27. That when a Cause has been tried by any Sheriff, and Notice to move for a new Trial given, he shall make, within *Four* Days after notice of a motion for a new trial is intimated to him, a fair copy of the Notes taken by him at the trial, and transmit the same to the President of the Division of the Court of Session, or the Judges of the Circuit Court, to whom the application for a new trial is to be made.

Regulations in new Trials.

28. That all the regulations as to Notices of Trial, as to Abandonment of the Suit, as to not proceeding to trial, and as to not appearing and proceeding with evidence at the trial, and all other matters and things herein provided for regulating the conduct of Parties as to trials, shall be the same in the case of a new trial as in the case of an original trial.

When Expenses shall not be applied for.

29. That in all Causes in which Special Verdicts are found, or in which there are special findings on which questions of law arise, in all Causes in which Special Cases are the result of the trial, and in all Causes in which Bills of Exceptions are proceeded with, it shall not be competent to apply to the Sheriff for Expenses until Final Judgment shall be pronounced therein, by the Division of the Court of Session or Circuit Court, before which the application for a new trial shall be made,

made, or Bill of Exceptions presented, or until expiry of the period allowed for these purposes, without any such motion having been made or Bill of Exceptions presented.

When Expenses applied for, in case of a general Verdict.

30. That a Party in whose favour a general Verdict has been found, may apply to the Sheriff for Expenses, as soon as the time to apply for a new trial has elapsed, or the application has been refused, and he shall award the same.

Taxing Expenses.

31. That when Expenses are awarded, and a remit is made to the Auditor of the Sheriff Court to tax the Account thereof, the Account shall be lodged with the Auditor, and taxed by him as in other Causes; and all Accounts shall be submitted for approval to the Sheriff after being taxed.

Diligence for Expenses.

32. That when Expenses are awarded and taxed, and no objection shall be stated by either party to the Account as taxed by the Auditor, or when objections made to the Report shall have been finally settled by the Interlocutor of the Sheriff, Judgment, or a deliverance on the Verdict for Expenses shall be entered without further application to the Sheriff, and all necessary diligence shall follow upon, and warrants for that purpose be included in the extract of such Judgment.

Orders, Acts and Warrants, how to be signed.

33. That in all cases in which an Interlocutor is pronounced ordering production of Papers, the citation and examination of havers or witnesses on commission, or to attend trials, or otherwise, or orders or precepts for summoning Jurors, or for any other matter or thing, an Extract of the Interlocutor or a certified copy thereof, signed by one of the Agents as aforesaid, shall be a sufficient warrant for the due execution thereof, and for enforcing the same.

Notices.

34. That every Notice given by Parties to each other must specify the day on which the same is to be heard, and must be lodged with the Sheriff Clerk, and a copy delivered or put into the Post Office on the day of Enrolment, addressed to the Agent for the opposite party, *Forty-eight* Hours before the proceeding takes place, unless the time is otherwise provided for by this Act.

Reporting Matters of Law or Relevancy, in Jury Causes, to the Court of Session or Circuit Court, before or after Verdict.

35. That where the Sheriff may find any difficulty in deciding questions of law or of relevancy, previous to trial by a Jury, he shall briefly state the facts and questions in the shape of a Report of a Special Case, which either party may print and enrol before the Judges of any division of the Court of Session during Session, or present to the Circuit Court during the Christmas recess, or Spring or Autumn Circuits; and the said

Judges shall have full power and jurisdiction to pronounce Judgment on such Report, and as to expenses; and to remit to the Sheriff Court to apply such Judgment, to tax the expenses, and to decern accordingly; and on the Sheriff reporting a question of law or relevancy, to be decided previous to the trial as aforesaid, the said Judges to whom the Report shall be made, shall forthwith proceed to decide whether the law or relevancy should be determined before trial, or be left for discussion at the trial or discussion after verdict; provided, that the Sheriff, instead of deciding or ruling the matter of law or objections submitted to him in the course of any such trial, may reserve the same for the consideration and opinion of the Judges of any of the divisions of the Court of Session during Session, or of the Judges at the Circuits during the Christmas recess or spring or autumn vacations, who shall thereupon determine the same, and the Interlocutor deciding such question of law or relevancy, shall not be subject to Appeal to The House of Lords until the final decision of the Cause.

Bills of Exceptions, or Motions for new Trial.

36. That Bills of Exceptions and Motions for new Trials in all Trials by Jury in the Sheriff Courts, shall be presented and made in time of Session to the Inner House of any division of the Court of Session during Session, on an Enrolment by the Party at whose instance such Bill of Exceptions is to be presented, or Motion is to be made, within *Twenty-one* Days next after the trial has been had, unless in either case there is special leave given by the Sheriff to prolong the period for presenting such Bill of Exceptions, or making such Motion; of which Motion notice shall be given to the opposite Party or his Agent, in the Sheriff Court, *Seven* Days before the date of said Enrolment, and a certified copy of such notice by the Agent in the Sheriff Court who makes it, shall be given to the Clerk who makes the Enrolment before the Inner House; and in case there shall not be *Twenty-one* Days of the Session to run, the application must be made for a new trial, or the Bill of Exceptions presented to any of the Judges of Session or Justiciary, at the First Circuit Court of the district in which the Sheriff Court is situated, but of which notice shall be given to the opposite Party within *Fourteen* Days after the trial has been had; and a copy of such notice shall be lodged with the Sheriff Clerk within the same time: Provided, That if *Twenty* Days from the date of the trial shall not have elapsed before the sittings of the said Circuit Court, the first *Six* Days of the next immediate sitting of the Court of Session shall be allowed to make such Motion, or present such Bill of Exceptions to the

the Court of Session; and further provided, that the Court of Session in time of Session, or any of the Judges of Session or Justiciary at the Circuits, in the Christmas recess or in the vacations, shall in such causes have full power and jurisdiction either to order a new trial upon payment of such expenses as they may respectively determine, or to sustain the Bill of Exceptions, and find or not find expenses due, as they may deem just, or to order a new trial.

Motion for changing the Venue.

37. That where any Party conceives that he shall suffer injury from his Cause being tried in the county where the Cause depends, he may apply to any division of the Court of Session during Session, or to the Judges of Session or Justiciary in the Circuit Courts, within *Fourteen* Days after it shall be fixed that the Cause is to be tried by Jury, to have the trial proceeded with in some other Sheriff Court; and the Judges of any of the said Courts, on cause shown and hearing Parties, or their Counsel, may order the Cause to be tried before any other Sheriff in any other county; and the verdict on such trial shall be reported by the presiding Judge or Sheriff, to the Sheriff before whom the action depended, who shall apply the same in like manner as if the Issues had been tried before himself.

Depute Clerks of Session to be Clerks to Jury Causes on Circuits, and Sheriff Clerks to be their Assistants.

38. That in all proceedings in Jury Trials originating in the Sheriffs' Courts, which shall be brought by Appeal before the Circuit Courts, any of the Depute Clerks of the Court of Session, who shall be on the Circuit for the time being, shall be the Clerk to the Process, while before the Circuit Court, and entitled to the custody of the Process; and the Sheriff Clerk of each Sheriffdom shall be the assistant to such Depute Clerk; and all notices of motions, or of other proceedings, in such causes before the Circuit Courts, shall be lodged with the said Sheriff Clerk in the first instance, and the Process may also be borrowed from him; and, failing the same being duly returned, the Sheriff of the Sheriffdom may grant a Process Caption, at the instance of the Sheriff Clerk, to compel the Process to be returned to him.

Expenses of Motions for new Trials, to be taxed and decerned for in Sheriff Courts.

39. That the Expenses allowed by the Sheriff Courts in the said Trials by Jury, or by the Court of Session, or Lords of Session, or Justiciary, on the Circuits, upon Motions for new Trials, or upon Bills of Exceptions, shall be taxed by the Auditor appointed for that purpose in each of the Sheriff Courts, and decerned for by such Courts.

Forms of Notices, Writs and Diligences, in Schedule annexed.

40. That the Forms of Writs, Notices, Issues and Diligences contained in the Schedule hereto annexed, shall be observed in all proceedings for the preparation of Causes in Trials by Jury in the said Sheriff Courts, as nearly as may be consistent with the particular circumstances of each case.

Procedure and Forms in Jury Causes before the Sheriff Courts, in so far as not regulated by this Act, to be the same as in Jury Causes in the Court of Session. 5 Will. IV. c 40.

41. That the Procedure and Forms of Writs, Notices, and otherwise in all Jury Causes before the Sheriff Courts, in so far as not specially regulated by this Act, and by the said recited Act of this Session of Parliament, regarding the practice and procedure in the Courts of Judicature in Scotland, shall be the same as the procedure and forms in Jury Causes observed at the time in the Court of Session, in so far as is possible in the said Sheriff Courts; provided, that in any case of difficulty in the forms or practice in Jury Causes before Sheriff Courts, the Clerk to Jury Causes in the Court of Session, or his Assistant, on being applied to by parties, or their agents, shall and is hereby required to give every explanation and information in his power; but, the parties shall be bound and responsible for all the proceedings they may take, whether they follow the advice or opinion of the said Jury Clerks or not.

X.

Duties of Sheriffs.

And be it Enacted, That the following Rules shall be observed with regard to the Duties of Sheriffs, and the Appointment o Sheriffs Substitute and Procurators Fiscal in Sheriff Courts:

Principal Sheriff to reside Four Months in the Year in his Sheriffdom.

1. That the Principal Sheriff of each Sheriffdom in Scotland, shall reside in his Sheriffdom during *Four* Months of the year, and preside personally in his Court, at least Two Days in each week, if there shall be Causes ready to try, commencing at *Ten* of the clock in the forenoon on each day, and so proceed as to try and decide all Causes which shall be brought into Court and be ready for judgment during the said *Four* Months; and especially, in the first place, to hear Parties, or their Agents, vivâ voce, in all Appeals from the decision of the Sheriff-Substitute, and give judgment on the same in open Court; and also to preside in Jury Trials, Civil and Criminal, and in Trials for small Debts; and where the Sheriffdom is divided into Wards, Districts or other Divisions, he shall apportion his time according to the number of Trials in each Ward, District or Division, and divide with the Sheriffs-Substitute or Substitutes the duties of the Ordinary Courts, and also of the Small Debt Circuit Courts; and the residence of the Sheriff-Principal in his Sheriffdom shall be, at least, during the whole of the spring and autumn Vacations, of the Court of Session.

2. That

2. That Principal Sheriffs shall no longer have power to nominate any Sheriff-Substitute; but the Appointment of all Sheriffs' Substitute shall be vested in His Majesty, His heirs and successors; every Person so to be appointed Sheriff-Substitute being duly qualified in terms of an Act of the sixth year of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better Regulation of the Sheriff, and Stewart and Burgh Courts of Scotland."

Sheriffs' Substitute to be appointed by The Crown.

6 Geo. 4. c. 23, s. 9.

3. That the Sheriffs and Sheriffs' Substitute, at present in the exercise of their offices, or any other Sheriff or Sheriff Substitute to be hereafter appointed as aftermentioned shall, if duly qualified, hold their offices as long as they shall well behave themselves therein: Provided always, That in case any Sheriffs-Substitute shall have faithfully served in his said office for the space of Years complete, and have attained the age of Years complete, or not having so long served, or not being of such an age, shall appear incapable of longer serving, through some permanent infirmity, certified by Two Physicians, after being examined on oath before the Lord President of any of the Divisions of the Court of Session, or any Commissioner, being a principal Sheriff, appointed by any of the said Lords President, (which Oath any of the said Lords President, or his said Commissioner, is hereby authorized to administer), it shall, and may be lawful for His Majesty, to allot such Sheriff-Substitute a sum equal to *Three-fourths* of his former salary, by way of superannuation, for the term of his life, unless he shall hold some other office or emolument under the Crown, and then and in that case his pension shall abate in such proportion as shall leave him a salary not less than the above amount of pension.

Sheriffs and Sheriffs' Substitute not removable.

In case of Old Age or permanent Infirmity, after Years' Service, Provision for Sheriffs' Substitute.

4. AND whereas, by the usage at present existing in the Sheriff Courts, the Procurators Fiscal of those Courts are appointed by Sheriffs during their pleasure: AND whereas, it is expedient that Sheriffs should no longer appoint the Persons who are to prepare and conduct prosecutions, to be instituted in Sheriff Courts, and to be carried on at the public expense; BE it Enacted, That Members of the Society of Writers to the Signet, or of the Incorporated Society of Solicitors before the Supreme Courts of Scotland, or Agents of the Sheriff Courts, who shall have been in practice for Years, shall be admissible to, and may be appointed by His Majesty, His heirs and successors, Procurators Fiscal in Sheriff Courts, and shall on such appointment hold their offices so long as they may well behave themselves: Provided

Procurators Fiscal to be appointed by His Majesty.

 vided

vided, That the Procurators Fiscal of the Sheriff Courts presently in office, if found qualified, may be specially appointed by His Majesty, as Procurators Fiscal in each Sheriffdom, and shall hold their offices as aforesaid, and such appointment by His Majesty, when made, shall supersede any former appointment.

Advocates may practise before the Sheriff Courts.

5. That all Members of the Scots Bar may practise as Advocates or Barristers before the Sheriff Courts of Scotland in Jury Causes.

XI. Construction of Act.

And be it Enacted, That in all cases in this Act where any of the terms "Sheriff," "Sheriffdom," "Shire," or "County," is used, the same shall be understood to apply to any Sheriffdom or Stewartry, or any Ward, District or Division thereof; and the words "Sheriff Clerk" to any Stewart Clerk; and the name "Sheriff" to include any Stewart, or Sheriff Substitute, or Stewart Substitute; the word "Name" to include Names; the words "Party" or "Person" to include Parties or Persons; the word "Pursuer" to include Complainer, Petitioner or Suspender; the word "Respondent" to include Defender or Charger; the word "Party" to include his Agent or Counsel where necessary; and wherever any word or words have been used or employed, importing the singular number, or the masculine gender, the same shall be understood to include the plural number or feminine gender, and bodies corporate as well as individuals, and persons acting in any legal capacity for others, unless it has been otherwise specially expressed or provided, or where the subject or context may be repugnant to such construction.

XII. Act may be repealed, altered or amended this Session.

And be it Enacted, That this Act may be repealed, altered or amended this Session.

SCHEDULE

SCHEDULE referred to in the ACT.

FORMS of NOTICES, WRITS, ISSUES, and DILIGENCE in JURY CAUSES.

No. I.—NOTICE of MOTION for DILIGENCE and COMMISSION for Recovery of Writings.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That on the day of next, the Sheriff of A. will be moved for a Diligence and Commission for the examination of Havers and recovery of Writings, as specified in the annexed List. Dated, &c.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

No. II.—NOTICE of TRIAL.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That this Cause will be tried at A., on the day of or at such time as the Court may appoint, or in such other places as may be appointed by the Court. Dated, &c.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

No. III.—COUNTERMAND of NOTICE of TRIAL.

A. B., Pursuer,
C. D., Respondent.

I DO hereby countermand the Notice of Trial served on you in this Cause. Dated, &c.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

[Mutatis mutandis, if it should be the Respondent's Notice of Trial.]

No. IV.—NOTICE of MOTION for SPECIAL [or, Proportion of SPECIAL and COMMON] JURY.

A., Pursuer.
B., Respondent.

TAKE NOTICE, That on the day of next, the Sheriff of A. will be moved, according to the Statute, for a Special [or, a proportion of a Special and Common] Jury.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

No. V.—NOTICE of MOTION for a VIEW.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That on the day of next, the Sheriff of A. will be moved, according to the Statute, that a View be had in this case. Dated this day of

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

No. VI.—NOTICE of MOTION to PUT OFF a TRIAL, on account of the Absence of a material Witness, or other necessary Cause.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That on the day of the Sheriff of A. will be moved that the Trial of this Cause may be put off until the day of next, on account of the absence of a material Witness, [or other causes] and in the meantime that all further proceedings be stayed. Dated, &c.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

N. B.—To be varied according to the circumstances of the case; and if the cause for putting off the Trial is indisposition, a Medical Certificate, on Soul and Conscience, must be lodged with the Notice.

No. VII.—NOTICE OF MOTION on Report of a Special Case, Question of Law or Relevancy, previously to a Trial by Jury.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That on the day of a Report of a Special Case (of which a copy is herewith left) by the Sheriff of A. on a Question of Law or Relevancy in this Cause, before Trial by a Jury, will be enrolled before the First [or, other] Division of the Court of Session [or, the Circuit Court to be held at C.] Dated, &c.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

No. VIII.—NOTICE of MOTION for NEW TRIAL.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That on the day of the First [or, Second] Division of the Court of Session [or, Circuit Court to be held at C.] will be moved for an Order to show cause why the Verdict in this Case should not be set aside, and a New Trial granted; and in the meantime that all further Proceedings be stayed. Dated, &c.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

No. IX.—NOTICE of MOTION for EXPENSES.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That on the day of the Sheriff of A. will be moved to find the Respondent liable in the Expenses incurred in this Case, and to remit the Account thereof to the Auditor to tax and report. Dated, &c.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

No. X.—NOTICE of MOTION for approving the AUDITOR'S REPORT.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That on the day of the Sheriff of A. will be moved to approve of the Auditor's Report in this Cause, and to give judgment in terms of the Statute. Dated, &c.

(signed) E. F., Pursuer's Agent.

To G. H., Respondent's Agent.

No. XI.—NOTICE of MOTION to remit to the AUDITOR to re-consider his REPORT.

A. B., Pursuer.
C. D., Respondent.

TAKE NOTICE, That on the day of the Sheriff of A. will be moved to remit to the Auditor to re-consider his Report on this Case, and also to delay giving Judgment. [Here state the grounds on which such delay is craved.] Dated, &c.

(signed) E. F., Respondent's Agent.

To G. H., Pursuer's Agent.

Note.—All Notices must be intimated by a Copy thereof, delivered personally, or left at the place of business or dwelling-house of the opposite Party or his Agent, or sent, properly addressed, to the opposite Party, or his Agent, through the Post Office, of the date of the Notice. If the Motion is to be before one of the Divisions of the Court of Session or Circuit Court, the Names of the Agents in the Court of Session and the Counsel for both Parties must be added, for the purpose of calling them in Court.

No. XII.—FIRST and SECOND WRIT of DILIGENCE for summoning WITNESSES.

A. B., Esquire, Sheriff of the County of A. To
Agents, Messengers at Arms, and Officers of Court, conjunctly and severally specially constituted:

WHEREAS in an Action raised at the instance of A. B. against C. D., a certain Issue is [or, certain Issues are] to be tried by a Jury before me, [or, us] at A. and within the Sheriff Court-room of the County of A., on Monday [or other day] the day of next, at Ten o'clock A. M.; at which time and place all Witnesses and Havers who may be lawfully cited by the Parties are required to attend, in order to be examined upon oath.

My will is herefore, and I charge you, that you lawfully summon, warn and charge personally or at their respective dwelling-places, to compear before my said Court, time and place foresaid, with continuation of days, to answer at the instance of the said A. B. [or, C. D.]: That is to say, to bear honest and true testimany upon oath, in so far as they know or shall be inquired at, regarding the matters to be then and there tried; and also to bring with them, exhibit and produce before the said Court, upon oath, all such Writings as they may have in their hands, custody or keeping, more particularly the Writings in the List hereto annexed, which they may be required so to exhibit and produce in evidence of any of the matters aforesaid, and that at their highest peril, and on pain of imprisonment as after mentioned: And in case the Persons to be summoned as aforesaid as Witnesses and Havers shall fail to appear before the said Court, time and place foresaid, and pay obedience to the citation given them, in that event I further command and charge you, that ye in my [or, our] name and authority, and in the name and authority of His Majesty, command and charge the Sheriffs of Sheriffdoms, the Stewards of Stewartries, and their respective Substitutes, the Provosts and Bailies of Burghs, and the Bailies of Regalities and Bailiaries, and also Messengers at Arms, and all others, Officers and Executors of the Law within Scotland, to pass, search for and apprehend the Persons who shall be summoned in manner foresaid, but who shall have failed to compear before the said Court and obey the citation given them, and being apprehended, to put them in sure ward, firmance and captivity within their Tolbooths

or other Warding-places, keep, hold and detain therein, upon their own proper charges and expenses, aye and until they find sufficient caution and surety to compear before the said Court, and pay full obedience to the citation given them by deponing, exhibiting and producing in manner above mentioned. According to justice: As ye will answer to me thereupon. Which to do, I commit to you full power by these presents, delivering them again to the Bearer, by you duly executed and indorsed. Given at the day of in the year One thousand eight hundred and

[Signed by an Agent.]

No. XIII.—COMMISSION for examining WITNESSES abroad, or who are disabled from attending the Court by Age or permanent Infirmity.

A. B. Esquire, Sheriff of the County of A. To Greeting: KNOW YE, That I, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power and authority to examine Witnesses for the Pursuer [or, Respondent] in the cause in which A. B. is Pursuer, and C. D. Respondent, to be tried by Jury before me at And therefore I command you, That on or before the day of next ensuing, at a certain day and place to be appointed by you for that purpose (of which you shall give due notice to the Agents of the Parties, if known to you,) you cause the said Witnesses to come before you, and then and there examine each of them apart upon the Interrogatories settled and attached to this Commission, on their respective Oaths, to be taken before you, according to the form of the Oath indorsed hereupon; and that you commit their Examinations to writing, and when so taken transmit the same, on or before the day of * closed up under your Seal,† together with the said Interrogatories and this Writ, to be deposited with the Sheriff Clerk of this County. And I also give you full power and authority to administer the Oath de fideli administratione to the Clerk or Clerks employed in writing the Depositions of the Witnesses to be examined in virtue of these Presents. Given at Edinburgh, the day of in the year One thousand eight hundred and

[Signed by an Agent.]

No. XIV.—OATH to be administered to the WITNESS.

YOU swear by GOD, and as you shall answer to GOD at the Great Day of Judgment, that you will tell the Truth, the whole Truth, and nothing but the Truth, so far as asked at you.

[N. B.—This Oath to be adapted to the religious persuasions of the respective Parties taking the same; and after the Oath has been administered, the Witness shall be purged of malice and partial counsel by these questions You know the Parties in this Cause (naming them)? You bear no ill will to either of them? Nobody has told you what to say? Nor given or promised you any thing for your evidence?]

No. XV.—FORM of INTERROGATORIES.

[N. B.—These Forms to be adapted to all Questions or Interrogatories, according to their subject-matter.]

INTERROGATORIES to be administered to a Witness, to be produced sworn and examined on the part and behalf of A. B., Pursuer, [or, Respondent]

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* The date of reporting the Commission.

† Although in this Commission, and in the Commission to examine Havers, the Commissioner is directed to send his Report under Seal, any application to the Court to open the said Seal is unnecessary, as that can be done by either of the Agents, unless the Court may have specially ordered the Examinations to be sealed up to lie *in retentis*.

Respondent] in a certain Cause now depending before the Sheriff of A. [or, Magistrates of B.] empowered to try Civil Causes by Jury, at his instance, against C. D. Respondent, before the Commissioner appointed by Interlocutor of date the day of in the year One thousand eight hundred and

1st. Do you know the Parties, Pursuer and Respondent in this Cause, or either and which of them, and how long have you known them, or either, and which of them? [Declare the truth and your knowledge therein. These words need not be taken down.]

(N. B.—The particular Interrogatories to intervene.)

Note.—It shall be competent to the Commissioner to put any Question or Questions to the Witnesses touching the matter in the Cause, besides what they have been interrogated unto, and to require the Witness to make such addition and explanations as he shall think necessary, and to ask the Witness whether he knows of any other matter or thing touching the matters in question in the Cause, besides what he has been interrogated unto; if yea, to declare the same fully and specifically, as if he had been particularly interrogated thereto.

No. XVI.—WRIT for summoning HAVERS.

A. B. Esquire, Sheriff of the County of A. To Agents and Officers of Court, also Messengers at Arms, conjunctly and severally, specially constituted, Greeting: WHEREAS in an Action depending at the instance of A. B. of C., against C. D. of E., a Commission was granted to to take the Depositions of Havers in the said Cause, to be adduced on the part of the Pursuer [or, Respondent], and to receive the Writings to be produced by them; and which Depositions are to be so taken before the said Commissioner, at on Monday [or other day,] the day of next, at ten o'clock, at which time and place all Havers who may be lawfully cited by the Parties are required to attend to be examined on Oath.

My will is, herefore, and I charge you, that ye lawfully summon personally, or at their respective dwelling-places, to compear before the said Commissioner, time and place foresaid, with continuation of days, to answer at the instance of the said A. B.; that is to say, to bring with them, exhibit and produce before the said Commissioner, upon oath, all such Writings as they may have in their hands, custody or keeping, which they may be required so to exhibit and produce in evidence of any of the matters aforesaid, and at their highest peril, with certification as effeirs. According to justice: As ye will answer to me thereupon. Which to do, I, [or, we] commit to you and each of you full power by these presents, delivering them again to the bearer, them by you duly executed and indorsed. Given at Edinburgh, the day of in the year One thousand eight hundred and [Signed by an Agent.]

Note.—If the Havers reside in another jurisdiction, a Writ of Supplement must be obtained, or Letters of Concurrence.

No. XVII.—COMMISSION to examine HAVERS.

A. B., Esquire, Sheriff of the County of To KNOW YE, That we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you full power and authority to examine as Havers for the Pursuer [or, Respondent] in the Cause in which A. B. is Pursuer and C. D. Respondent: And therefore I command you, that on or before the day of you cause the said Havers to come before you, and there receive from them, upon Oath, all such Writings as they may so

exhibit, conform to the List or Specification hereto annexed; and that you reduce their Examinations to Writing, and when so taken, transmit the same on or before the day of * under your seal, to the Sheriff Clerk of this County. Given at Edinburgh, the day of in the year One thousand eight hundred and

[Signed by an Agent.]

No. XVIII.—WRIT or DILIGENCE for summoning WITNESSES to be examined on Commission.

A. B. Esquire, Sheriff of the County of A. To Agents and Officers of Court, also Messengers at Arms, conjunctly and severally, specially constituted: WHEREAS in an Action depending at the instance of A. B. of C., against C. D., of E., a Commission was granted to to take the Depositions of G. H. of, &c. Witnesses to be adduced on the part of the said A. B. [or, C. D.], and which Depositions are to be taken before the said Commissioner at C. on the day of next, at o'clock; at which time and place all Witnesses who may be lawfully cited are required to attend, in order to be examined upon Oath.

My will is herefore, and I charge you that ye lawfully summon personally, or at their respective dwelling-places, to compear before the said Commissioner, time and place aforesaid, with continuation of days, to answer at the instance of the said A. B. [or, C. D.]; that is to say, that the said appear before the said Commissioner, and upon oath answer all Interrogatories that may be put to them, conform to a List thereof duly adjusted and authenticated, in relation to and in evidence of any of the matters aforesaid, and at their highest peril, with certification as effeirs. According to justice: As ye will answer to me thereupon. Which to do, I commit to you and each of you, full power by these presents, delivering them again to the bearer, by you duly executed and indorsed. Given at the day of in the year One thousand eight hundred and

[Signed by an Agent.]

No. XIX.—WRIT to summon JURORS for Jury Trials in Edinburgh.

A. B. Esquire, Sheriff of the County of To Messengers at Arms or Officers of Court. You the said Messengers at Arms or Officers shall, upon sight hereof, lawfully summon, warn and charge a sufficient number of Persons qualified to serve as Jurymen living within my jurisdiction, in the district thereof called being not less in number than to compear before me within the Sheriff [or, Burgh] Court-room at Edinburgh, on the day of at Ten o'clock A. M., with continuation of days, then and there well and truly to try the matters at issue in certain Causes to be tried before me in said Court: And that you do respectively make out a List of the Names and Designations of the said Jurors summoned by you, and return the same to the Sheriff Clerk's Office on or before the day of the which to do, I commit to you full power by this Writ. Given under the hands of me, one of the Procurators of the Sheriff [or, Burgh] Court at Edinburgh, the day of in the year One thousand eight hundred and

[Signed by Agent of Court.]

No. XX.

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* The date of reporting the Commission.

No. XX.—RULE for SPECIAL [or, Proportion of SPECIAL and COMMON] JURY in Edinburgh.

IT is Ordered, That the Issue in this Cause shall be tried by Jury specially [in the case of a Special Jury] chosen from Persons duly qualified by the Statutes to serve as Special Jurors within Counties [or, within Burghs] [or, in case of a Special and Common Jury, say a sufficient number of Persons qualified to serve as Special Jurors and as Common Jurors, living within my [or, our] jurisdiction, in the district, in the proportion of One-third of Special Jurors and Two-thirds of Common Jurors.] And it is further ordered, That the Sheriff Officers of this Court [or the Officers of the Burgh Court] do, upon notice of this Rule to be given forthwith, return the Names of Persons as Special [or, Special and Common] Jurymen, to try the said Issue, to the Office of the Sheriff [or, Burgh] Clerk, according to the form of the Statutes in such case made and provided.

By the Court.

No. XXI.—SPECIAL JURY WRIT for TRIALS in Edinburgh.

A. B., Esquire, Sheriff of the County of Edinburgh, Messengers at Arms and Sheriff Officers of the Sheriff of Edinburgh: You, the said Messengers at Arms and Sheriff Officers shall, upon sight hereof, lawfully summon, warn and charge the selected for the trial of the Issues between A. B., Pursuer, and C. D., Respondent, to compear before me within the Court Room of the Sheriff at Edinburgh, on Monday [or other day] on the day of at Ten o'Clock, A.M., with continuation of days, (videlicet): And that you respectively make a Return of the due execution of this Precept to the Office of the Sheriff Clerk, indorsed hereon, on or before the day of The which to do, I commit to you full power by this Writ.

Given under the hands of me, one of the Agents of Court at Edinburgh, the day of One thousand eight hundred and

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No. XXII.—RULE for a VIEW.

A. B., Esquire, Sheriff of the County of Edinburgh, To the Messengers at Arms, or Sheriff Officers of the Sheriff Court. Seeing that there has been returned a List of a sufficient number of the Names and Designations of Common Jurors to try the matters at issue between A. B., Pursuer, and C. D., Respondent; I do further command you, That you have the following Persons, videlicet: [Names and Designations] being of the aforesaid List of Jurymen, to take a view of the place in question, which is situated in on the day of And that the same Jurors meet on the same day at o'clock, within the house of And that on the part of the Pursuer, and on the part of the Respondent, are appointed to show the said place to such of the said Jurors as shall come to view the same: And in what manner you, the said Messengers, or Officers of Court, shall have executed this Precept, you make appear to me, at Edinburgh, on the day of the day appointed for the Trial of the said Issues, at o'clock, A.M.; and that you then have there this rule.

Given under the hands of me, one of the Agents of Court, at Edinburgh, the day of

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No. XXIII.—FORM of ISSUES.

In the Cause in which A. B. is Pursuer and C. D. Respondent.

FIRST.—Whether, on or about the day of in a House or Inn in Bristo Port, Edinburgh, the Respondent wrongfully apprehended the Pursuer,

or wrongfully caused him to be apprehended, or wrongfully detained the Pursuer, or caused him to be detained, until the day of the said Month, in the said House or Inn, or in the House of J. L., a Constable her Officer of the Law, to the loss, injury and damage of the Pursuer.

SECONDLY.—Whether, on or about the day of the Defender did wrongfully apprehend, or cause to be apprehended, or did wrongfully detain the Pursuer, from on or about the said day of until on or about the day of or during any part of the said period, to the loss, injury and damage of the Pursuer.

Damages laid at £. 1,000. [Signed by the Sheriff.]

No. XXIV.—FORM of VERDICT.

AT the day of in the year One thousand eight hundred and before the Honourable the Sheriff of A., compeared the said Pursuer, and the said Respondent [or, by their respective Counsel or Agents]; and a Jury having been impannelled and sworn to try the said Issues between the said Parties, the said Jury say upon their Oath, that in respect of the matters proven before them, they find, &c.

[Signed by the Sheriff.]

No. XXV.—VERDICT in ABSENCE of a PARTY.

AT the day of One thousand eight hundred and before the Honourable the Sheriff of A. compeared the Pursuer [or, by his Counsel or Agent]; but no appearance was made for the Respondent, by himself or his Counsel or Agent, although it was proved to the satisfaction of the Court that Notice of Trial was duly served on the Respondent [or his Agent in the Cause]; and a Jury having been impannelled and sworn to try the Issues between the said Parties, the said Jury say upon their Oath, that in respect of the Respondent not appearing as aforesaid, and no evidence being adduced in support of his case, they find for the Pursuer.

No. XXVI.—SPECIAL VERDICT.

AT the day of in the year One thousand eight hundred and before the Honourable the Sheriff of A. appeared the Pursuer and Respondent [or, by their respective Counsel or Agents]; and a Jury having been impannelled and sworn to try the said Issues between the Parties, the said Jury say upon their Oaths, that in respect of the matters proven before them, they say that, &c. [Here set out the special finding]; and the Jury further say, that if the Court shall be of opinion, &c. they find for the but if the Court shall be of opinion, &c. they find for

[Signed by the Sheriff.]

No. XXVII.—REPORT ON SPECIAL CASE.

In the Cause in which A. B. is Pursuer, and C. D. Respondent.

IT was admitted [here state the admissions,] and the Issues sent for Trial were [here insert the Issues.]

Afterwards, at the day of One thousand eight hundred and before the Honourable the Sheriff of A. appeared

appeared the Pursuer and the Respondent [or by their respective Counsel or Agents]; and a Jury having been impannelled and sworn to try the said Issue between the Parties, did by the agreement of said Parties find a Verdict for the Pursuer, subject to the opinion of the Court upon the following Case, [here state the case.]

The Questions for the opinion of the Court on the above facts, are: Whether [here state the Questions.]

If the Court is of opinion on the facts stated, that the did &c. Judgment to be given for the but if the Court is of opinion that the did not, &c. then Judgment to be given for the

[Signed by both Parties or their Counsel or Agents; or signed by the Sheriff.]

No. XXVIII.—FORM OF BILL OF EXCEPTIONS, as to the Effect of Evidence.

Bill of Exceptions for the Respondent.

In the Cause in which A. B. is Pursuer, and C. D. Respondent.

WHEREAS the following Issues were adjusted and approved of by the Sheriff of A., and ordered to be the Issues to try this Cause [here follow the Issues.]

And whereas, afterwards at a sitting of the said Sheriff Court of A., to try Civil Causes by Jury, held on, &c., at, &c., before, &c., the aforesaid Issues came on to be tried by a Jury of the County of A. At which day came there the Pursuer and Respondent [or by their respective Counsel or Agents]; and the Jury impannelled to try the said Issues being called, also came, and were there and then in due manner chosen and sworn to try the said Issues; and upon trial of the said Issues, the Pursuer [or, the Counsel or Agent for the Pursuer] to maintain and prove the Case under the said Issues, did give in evidence, that, &c. [here set out the evidence on the part of the Pursuer, and afterwards on the part of the Respondent, and then proceed as follows]: Whereupon the Respondent [or, the Counsel or Agent for the Respondent] did then and there insist before the said Sheriff of A. on the behalf of the Respondent, that the said several matters as produced and given in evidence on the part of the Respondent as aforesaid, were sufficient, and ought to be admitted and allowed as decisive evidence, to entitle the Respondent to a Verdict; [this to be varied according to the nature of the exception,] and to bar the Pursuer of his action aforesaid; and the Respondent [or, the Counsel or Agent for the Respondent] did then and there pray the said Sheriff of A. to admit and allow the matters so produced and given in evidence for the Respondent to be conclusive evidence in favour of the Respondent, to entitle him to a Verdict in this Cause, and to bar the Pursuer of his Action. But to this the Pursuer [or the Counsel or Agent for the Pursuer] did then and there object, and insist before the said Sheriff of A. that the same was not sufficient nor ought to be admitted or allowed to entitle the Respondent to a Verdict, or to bar the Pursuer of his Action. And the said Sheriff did then and there deliver his opinion to the Jury, that the several matters so produced and given in evidence on the part of the Respondent were not sufficient to bar the Pursuer of his Action; and with that direction left the same to the Jury; and the Jury gave their Verdict for the Pursuer, and [if a case for damages] for £. of Damages? Whereupon the Respondent [or the Counsel or Agent for the Respondent] did except to the aforesaid opinions of the Sheriff, and insisted on the several matters as an absolute bar to the Action. And whereas the said several matters so produced and given in evidence on the part of the Respondent, objected and insisted on as a bar to the Action, do not appear by the Verdict aforesaid, the Respondent [or the Counsel or Agent for the Respondent] did propose the aforesaid exception to the opinion of the said Sheriff, and requested him to sign the said Bill of Exceptions, containing the several matters so produced and given in evidence on the part of the Respondent as aforesaid, according to the form of the Statute in such case made and provided; and thereupon the said Sheriff, at the request of the Respondent [or, the Counsel or Agent of the Respondent]

did sign the Bill of Exceptions, pursuant to the Statute in such case made and provided, on the said day of in the year One thousand eight hundred and

[Signed by the Sheriff.]

Mutatis mutandis, Where the exception is by the Pursuer, and also where the Bill is on the account of the admissibility of evidence, or of a question to a Witness, or of the admissibility of a Witness, or an objection to any point of law ruled by the Court.]

No. XXIX.—JUDGMENT and DECREE in a CASE of DAMAGES.

At A., the day of One thousand eight hundred and the Sheriff of A. in terms of the above Verdict, decern and ordain the Respondent to pay to the Pursuer the Sum of sterling, of Damages; and further decern and ordain the Respondent to pay to the Pursuer the Sum of sterling, of Expenses; and ordain all manner of legal Execution to pass upon the said Verdict and this Judgment and Decree in common form; and decern and ordain the Respondent to pay the Fees of Extract, and all manner of legal Execution, as the same shall be taxed and ascertained, including the Auditor's Fee, by the Auditor of Court.

[Signed by the Sheriff.]

No. XXX.—JUDGMENT and DECREE where VERDICT for the RESPONDENT.

At A., the day of One thousand eight hundred and the Sheriff of A. in terms of the above Verdict, acquit the Respondent from the conclusions of the Libel, and decern; and further decern and ordain the Pursuer to pay to the Respondent the Sum of sterling, of Expenses; and ordain, &c [as in the preceding Form.]

No. XXXI.—WARRANT on the above JUDGMENT or DECREE, in a Cause tried by the Sheriff.

A. B., Esquire, Sheriff of the County of A. WHEREAS A., of the Date hereof, obtained Judgment and Decree, at his instance, against B., Defender, before me, decerning and ordaining him, in terms of the Verdict of a Jury therein mentioned, to make payment to the said A. of the Sum of of Damages; and further decerning and ordaining him to make payment to he said A. of the Sum of of Expenses, and of the Fees of Extract, and all manner of legal Execution as the latter should be taxed and ascertained, including the Auditor's Fee, by the Auditor of Court.

My will is herefore, That on sight hereof Officers of Court, or Messengers at Arms, conjunctly and severally, specially constituted, pass, and by my [or, our] authority, command and charge the said Defender, personally, or at his dwelling-place, to make payment to the said Pursuer of the foresaid Sums of Principal, Expenses and Fees of Extract, and of executing these Presents, as the latter shall be audited and ascertained by the Auditor of Court, contained in the Judgment and Decree before narrated, after the form and tenor thereof in all points, within Fifteen days next after he is charged by you thereto, under the pain of imprisonment; and that ye lawfully fence, arrest, appraise, poind and distrain the said Defender's whole readiest moveable property, wherever the same may be found, make payment thereof to the avail and quantity of the aforesaid Sums, and see the said Pursuer completely paid and satisfied of the same. Moreover. [Here take in Warrant of Imprisonment, &c. in common form.]

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III.

A

B I L L

To explain and regulate the Jurisdiction of the Sheriff Courts of Scotland, and to transfer the Benefits of Jury Trial in Civil Causes to a limited Amount to the said Courts; also, to regulate the Duties and Appointment of Sheriffs Principal and Substitute, and the Appointment of Procurators Fiscal.

(*Prepared and brought in by Mr. Robert Wallace and Mr. Hume.*)

Ordered, by The House of Commons, *to be Printed,*
10 *June* 1835.

(Ireland.)

A

B I L L

For the Improvement of the Navigation of the River Shannon.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS the Improvement of the Navigation of the River Shannon, from its source in Lough Allen, in the county of Leitrim, to the mouth of the said River, will contribute to the general Prosperity, Commerce, Agriculture and Revenue of Ireland, and also tend to the advantage and improvement of the respective counties and districts adjoining such Navigation: And whereas certain Surveys have been made under the direction of the Lord Lieutenant of Ireland, whereby it appears that the whole course of the said River, embracing two hundred and thirty-two miles of continuous Navigation may be improved and thrown open, and rendered effectually navigable by the execution of divers proposed works: And it is expedient that the necessary works should be executed under the direction of the Commissioners for the Promotion and Extension of Public Works in Ireland, and the control and conservation of such Navigation vested in them; and that the Expenditure attendant upon the Improvement of the said Navigation shall, in the first instance, be defrayed out of the public Revenue, and that one moiety of the sum so advanced shall be a free grant for the Improvement of such Navigation, and the other moiety repaid by Twelve half-yearly instalments out of the surplus of the produce of such Tolls as may accrue from the said Navigation, after defraying the expenses of maintaining the said Navigation; and in case the surplus of such Tolls should prove insufficient in any year to pay the annual instalment then due, that the deficit shall be made good Preamble.

good by a local Rate or Assessment upon the Counties and Districts adjoining such Navigation, and benefited by the Improvement thereof, in such Shares and Proportions as may be fixed and established in manner hereinafter mentioned, according to the particular extent of benefit arising out of such Improvement of the said Navigation, to each of the said Counties and Districts respectively:

And whereas it is expedient, with a view to the Improvement of the said Navigation in the most judicious, effectual, and economical manner, that the works necessary to be executed for that purpose should be previously ascertained, and an Estimate made of the Expense attendant thereon, and of the Sum required to be paid for the Compensation of the several Persons possessed of any right of Fishery, or other right in anywise injured or prejudiced by the said proposed works, and for the purchase of any Lands or Tenements required to be taken for the erection of Wharfs, Piers, Landing Places, or other purposes connected with the said Navigation;

1. Lords of Treasury may appoint Commissioners for carrying this Act into execution.

Be it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall and may be lawful for the Lords Commissioners of His Majesty's Treasury, or any *Three* or more of them, by warrant under their hands, to constitute and appoint *Three* or more Persons to be Commissioners for the purpose of ascertaining the Works necessary to be executed for the Improvement of the said Navigation, and making an Estimate of the Expense thereof, and inquiring into and determining the proportions in which the several Counties and Districts adjacent to such Navigation and benefited by the Improvement thereof, should contribute towards making good the proportion of such Expense, which may, in defect of the surplus Tolls arising from such Navigation being adequate to that purpose, as hereinbefore mentioned, fall upon such Counties and Districts, and for the other purposes of this Act.

2. Commissioners appointed under this Act, shall swear duly to execute the trusts committed to them.

And be it Enacted, That the said Commissioners so to be appointed under this Act, shall each of them, previously to his entering upon the execution of such Commission, take an Oath before one of the Justices or Barons of one of His Majesty's Superior Courts of Record at Dublin (which Oath they are hereby respectively authorized to administer) of the tenor hereinafter following; (that is to say)

> "I, A. B. do swear, that I will faithfully and impartially, according to the best of my judgment, execute the several powers and trusts vested in me by an Act intituled [here set out the title of this Act.]"

And

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3. Commissioners may meet from time to time. &c.

And be it Enacted, That the said Commissioners may meet and sit from time to time in such place or places as they shall find most convenient, with or without adjournment; and that all acts, matters and things which the said Commissioners for the execution of this Act are by this Act authorized to do or execute, may be done and executed by any *Three* or more of them; and that they shall and may, with the consent and approbation of the said Lords Commissioners of the Treasury, employ such Officers as they may find necessary, and that all and every the Persons so employed in any such capacity may from time to time be dismissed at the pleasure of the said Commissioners, and any other Person or Persons with the like consent and approbation appointed in his or their stead.

4. All Maps, Plans, &c. relating to the Navigation of the Shannon to be delivered to Commissioners.

And be it Enacted, That the several Surveys, Maps and Plans heretofore made under the direction of the Lord Lieutenant of Ireland of the said Navigation, and all other papers and documents relating to the same, and material to the purposes of this Act, shall be delivered to the said Commissioners to be appointed under this Act; and that they shall take the same into their consideration, and cause such other Surveys, Maps, Plans and Sections as they shall find necessary to be made, and inquire into and ascertain, by the examination of Witnesses, and all such other ways and means as they shall think proper, the most effectual and judicious mode of improving the said Navigation, and of opening and clearing the said River Shannon from its source to the sea, and of carrying into execution all such Works as they shall find necessary in relation thereto; and shall likewise ascertain the proper and convenient places for the formation of such Havens, Piers, Wharfs and Landing Places as they shall think necessary, distinguishing such of them as ought to form part of the Works to be undertaken in pursuance of this Act, under the direction of the said Commissioners for the promotion and extension of Public Works in Ireland, and such of them as may be conveniently left to individual enterprise; and having made such inquiry, the said Commissioners for the execution of this Act shall, if necessary, make out a Plan and Estimate, with proper Plans, Maps, Drawings and Sections, and Elevations thereto attached, showing and describing the said Navigation, and the several Works proper in their judgment to be executed for the clearing and improving the same, and for confining the waters thereof, and preventing the inundation of the contiguous lands, and the proper places for the erection of toll-houses; and it shall be lawful for the said Lords Commissioners of the Treasury from time to time to give such orders and directions as they shall think proper, defining the duties of the said Commissioners for the execution of this Act in respect of such matters, and the extent of their inquiries; and the said Commissioners for the execution of this Act shall obey and observe all such orders and directions as aforesaid, which shall from

time to time be signified to them by the said Lords Commissioners of the Treasury.

5. Power to Commissioners to enter lands, &c. for the purposes of this Act.

And be it Enacted, That, for the purposes of such survey and inquiry, or any other of the purposes of this Act, it shall and may be lawful for the said Commissioners for the execution of this Act, by themselves, their Surveyors, Engineers, Agents, Officers and Workmen, to enter upon any lands or premises being near or contiguous to the said River Shannon, or any of the Rivers or Streams connected therewith, and, if necessary, to dig or bore therein; and that for the purposes aforesaid, it shall be in like manner lawful for the said Commissioners for the execution of this Act, their Surveyors, Engineers, Agents, Officers and Workmen, to raise and examine any Weir, Sluice or Floodgate erected in or upon the said River Shannon, or any other of the Rivers or Streams aforesaid, and to make any soundings, or bore the bed or channel of any part of the said River Shannon, or of any Rivers or Streams, or mill-course or dam connected therewith, in what Person, Company or Corporation soever the navigation, control, direction or property in such River or Stream, or mill-course or dam, may be in anywise vested.

6. Commissioners to prepare a Schedule of lands, &c. to be taken for the purposes of this Act.

And be it Enacted, That the said Commissioners for the execution of this Act, having ascertained and determined upon the Works proper in their judgment to be executed for the purpose of improving and completing the said Navigation, shall prepare a Schedule, with such Maps and Plans thereto attached as may be necessary, showing and describing the Lands, Tenements or Hereditaments required to be taken for the purposes of this Act, and the Mills, Weirs, Fisheries or other rights or franchises, so far as they may be known to the said Commissioners, liable to be anywise injuriously affected by the proposed Works; and shall cause copies thereof to be made and deposited in such and so many convenient places in the vicinity of such Navigation, and of the premises mentioned in such Schedule, as they shall think proper, there to remain open to public inspection at all reasonable times for successive Weeks, and shall cause notices of the place or places where the same may be deposited to be posted in the usual places for posting Grand Jury notices in each adjacent Barony or Half Barony; and shall also cause a like notice to be inserted *once* in each week for successive Weeks in the Dublin Gazette, and in some one or more Newspapers circulating in the neighbourhood of such Navigation; and the said Commissioners shall also cause a notice in writing to be delivered to or left at the usual place of abode of the owners or occupiers, or reputed owners or occupiers (where the same may be known to the said Commissioners) of all such Lands, Tenements and Hereditaments, Mills, Weirs, Fisheries, or other rights or franchises

chises required to be taken for, or liable to be injuriously affected by the said proposed Works, requiring such owners and occupiers to prefer their respective claims before the said Commissioners for the value of such property, or the compensation to be allowed for any prejudice or injury resulting thereto from such Works.

6. Commissioners to adjudicate upon claims for damages, &c. arising under the execution of this Act.

And be it Enacted, That any Person having or claiming to have any right, title or interest in or to any Lands, Tenements or Hereditaments, Mill, Weir, Fishery or other right or franchise, liable to be in anywise injured or damaged by the said proposed Works, or required to be taken for the purposes thereof, whether the same shall be included in the said Schedule or otherwise, shall and may, within such time and in such manner and form as the said Commissioners for the execution of this Act shall, by some general rules to be by them framed and published, notify and appoint, apply to the said Commissioners, stating the value of their respective properties, and claiming the same, or the compensation to be allowed for any injury or damage resulting or which may result thereto from such Works; and the said Commissioners shall proceed in the manner prescribed by such general rules, to be by them established as aforesaid, to inquire into and adjudicate upon such claims, and shall, after due inquiry and examination, assess and declare the value of the several lands, tenements or hereditaments required to be purchased for the purposes of the said Works so proposed to be executed for the improvement and completion of the said Navigation, and the amount of compensation to be allowed to the owners of any mill, weir, fishery or other right or franchise, of what nature soever, necessary to be extinguished, or liable to be anywise injuriously affected by such Works, and shall fix such value or compensation as of an estate in fee-simple, or the absolute and entire estate and interest therein, without specifying the person or persons entitled to or interested therein, or the value of their respective shares and interests, or the amount of compensation due to them severally; and having ascertained and declared the value of such lands, tenements or hereditaments, and the amount of such compensation in each such case as aforesaid, the said Commissioners for the execution of this Act shall, by public advertisement and otherwise, as the said Lords Commissioners of the Treasury shall direct, notify and appoint a time and place for the confirmation of their said award and adjudication, and shall attend at such time and place, and shall thereat, or at some adjournment therefrom, proceed in open court to declare such award and adjudication on each case, and hear all such objections which may be offered thereto by any person whatsoever, and receive all such evidence as they shall find pertinent and proper, and amend or confirm and finally settle each such award and adjudication accordingly.

7. Commissioners shall adjudicate upon the proportions of Expense to be borne by the Counties, &c. benefited under this Act.

And be it Enacted, That at some time previous to the said Court so to be holden by the said Commissioners for the execution of this Act, they shall, by all such ways and means as they shall think necessary, inquire into and ascertain the several counties, or parts of counties, through or near to which the said Navigation may pass, and which are likely to derive benefit from the said Navigation being improved and thrown open, or from any work proposed to be executed by the said Commissioners, and shall ascertain and determine the proportions in which such benefit is likely to accrue to such counties or parts of counties respectively; and in case they should find that any particular Lands are likely to derive peculiar benefit from the waters of such Navigation being confined to their natural channel, so as to relieve such Lands from inundation, or are likely to derive peculiar benefit from any other proposed work, the said Commissioners shall assign the particular share or proportion of benefit likely to accrue to such Lands; and having so fixed and ascertained such proportions as aforesaid, the said Commissioners shall, at such open court to be holden as aforesaid, proceed to declare such proportions and hear all such proper and pertinent evidence as shall be offered to them in reference thereto, and finally award and adjudicate upon such proportions.

8. Commissioners authorized to take Examinations on Oath.

And be it further Enacted, That the said Commissioners for the execution of this Act, may examine upon oath or affirmation (which oath or affirmation they, or any *One* or *Two* of them are and is hereby authorized to administer), all Persons who shall appear before them to be examined as witnesses, touching any matters or things which may be depending, or touching any questions which may arise in the execution of the powers vested in the said Commissioners by this Act, and may also receive any affidavits or depositions in writing, upon oath or affirmation, touching such matters or things as aforesaid, which shall be made before any Justice of the Peace of any County or Shire, or any Magistrate of any Borough or Town Corporate in Great Britain or Ireland, where or near which the person making such affidavit or deposition shall reside, or before any Judge of any of His Majesty's Superior Courts at Westminster or Dublin, and certified and transmitted to the said Commissioners, under the hand and seal of such Justice or Magistrate or Judge respectively (and which oath or affirmation every such Justice or Magistrate shall be and is hereby authorized and empowered to administer); provided, that in every such affidavit or deposition there shall be expressed the addition of the Party making such affirmation or deposition, and the particular place of his or her abode.

9. Commissioners may compel the attendance and examination of Witnesses.

And be it further Enacted, That the said Commissioners for the execution of this Act shall be and are hereby authorized, by a summons under their hands, or under the hands of any *Three* of them, to require the attendance before them, by a time to be in such

summons

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summons for that purpose limited, of any Person or Persons competent, or whom such Commissioners may have reason to believe to be competent, to give evidence upon any question or matter depending before them, touching or concerning the said Navigation, or the value of the Premises required to be taken for the purposes thereof, or the amount of any compensation as aforesaid; and if any Person upon whom any such summons shall be served by the actual delivery thereof to him or her, or by the leaving thereof at his or her usual place of abode, shall, without reasonable cause to be allowed by such Commissioners, fail to appear before them at the time and place in such summons for that purpose mentioned, or, so appearing, shall refuse to be sworn, or to make his or her solemn affirmation, as the case may be, or, having been so sworn, or having made such affirmation, shall not make answer to any such questions as may by the said Commissioners be proposed to him or her, touching any matter or thing depending before them under the provisions of this Act, or shall refuse or fail to produce and exhibit to the said Commissioners any such papers and documents relating to any question, matter or thing depending before such Commissioners as shall by them be called for or required, every such Person shall for such his default, refusal or neglect as aforesaid, incur and become liable to all such fines and penalties, prosecutions, civil suits, or actions as any person may by law incur or become liable to for default of appearance, or for refusing to be sworn, or to give evidence upon any issue joined in any action depending in His Majesty's Court of King's Bench; and the said Commissioners shall have all such and the same powers, jurisdiction and authority for imposing and causing to be levied and recovered any such fines and penalties as aforesaid, as are by law vested in any of the Judges of the said Court for imposing or causing to be levied and recovered any fines or penalties incurred by any person failing to appear as a witness, or refusing to be sworn, and to give evidence in the trial of any action before any such Judges or Judge.

11. Penalties for swearing falsely before Commissioners, &c.

And be it further Enacted, That if any Person or Persons, upon examination on oath or affirmation before the said Commissioners respectively, or if any Person or Persons making any such affidavit or deposition as before mentioned, shall wilfully and corruptly give false evidence, or shall in such affirmation, affidavit or deposition wilfully or corruptly swear, affirm or allege any matter or thing which shall be false or untrue, every such Person or Persons so offending, and being thereof duly convicted, shall be and is and are hereby declared to be subject and liable to the pains and penalties of persons convicted of wilful and corrupt *Perjury*, by any law in force at the time of such Perjury being committed.

12. Commissioners shall transmit all Documents

And be it Enacted, That the said Commissioners shall, with all convenient speed after the completion of the several duties herein-

connected with the execution of this Act to Lords of Treasury, who shall cause the same to be laid before Parliament.

before appointed to be executed by them under this Act, prepare a Plan, Estimate and Specification, with proper Maps and Schedules thereto attached, of the several Works proper in their judgment to be executed for the improvement and completion of the said Navigation, and the erection of Tollhouses thereon, and the expense of executing such Works and erecting such Tollhouses, including and distinguishing the sums required to be paid for the purchase of premises required for the purposes of the said Navigation, and to be paid as compensation, and shall also form such plan as they may think advisable for the levying and collecting proper Tolls (stating the amount thereof) upon the said Navigation for the maintenance of the same, and for the repayment of the moiety of the advances to be made as hereinbefore recited for the improvement and completion of the said Navigation, and shall transmit such Plans, Maps, Specifications, Estimates, Awards and Adjudications and plan for Tolls to the said Commissioners of His Majesty's Treasury, together with a report on such matters concerning the improvement of such Navigation, and the state of the same, as the said Lords Commissioners shall direct, and the said Lords Commissioners shall, on the receipt thereof, lay all such documents before both Houses of Parliament, if Parliament be then sitting; and if Parliament be not then sitting, such documents shall be laid before the said Two Houses within *Fourteen* Days after the commencement of the then next Session of Parliament.

River Shannon.

(Ireland.)

A

B I L L

For the Improvement of the Navigation of the River Shannon.

(Prepared and brought in by Mr. Chancellor of the Exchequer, Lord Viscount Morpeth, and the Earl of Kerry.)

Ordered, by the House of Commons, to be Printed, 27 August 1835.

569.

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10 *August* 1835.

A

B I L L

To carry into further Execution the Provisions of an Act passed in the Third and Fourth Years of His present Majesty for compensating Owners of Slaves upon the Abolition of Slavery.

[Note.—The Words printed in *Italics* are proposed to be inserted, and the Blanks filled up, in the Committee.]

WHEREAS an Act was passed in the third and fourth years of the reign of King WILLIAM the Fourth, intituled, "An Act for the Abolition of Slavery throughout the British Colonies; for promoting the Industry of the Manumitted Slaves, and for compensating the Persons hitherto entitled to the Services of such Slaves:" Preamble: 3 & 4 Will. 4, c. 73.

And whereas a Contract or Agreement for raising the sum of Fifteen Millions, part of the sum of Twenty Millions authorized to be raised by the said recited Act, has been entered into, under the authority of the said recited Act, between the Lords Commissioners of His Majesty's Treasury and divers Persons willing to contribute the said sum of Fifteen Millions, bearing date the Third day of August in this present year, for carrying into effect the purposes of the said recited Act; and it is expedient to make provisions and regulations whereby the payments to be made to the several Persons entitled to compensation under the provisions of the said Act, may be so arranged as to fall due and become payable from time to time out of the Monies received from time to time under the said contract as Instalments of the said sum of Fifteen Millions, as such several Instalments shall become due;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority

1. Certificates may be issued by the Commissioners for the Reduction of the National Debt, carrying Interest chargeable on the Instalments of the Loan.

Authority of the same, THAT the Commissioners for the Reduction of the National Debt may and they are hereby empowered to issue, under such Forms and Regulations as the said Commissioners shall think proper to adopt for that purpose, Certificates payable to the Bearer thereof, carrying Interest after the rate of ; and the principal sum specified in such Certificates shall be charged upon and shall be payable out of the Monies received from time to time on account of the said sum of Fifteen Millions standing upon the Account of the said Commissioners for the Reduction of the National Debt, in the books of the Bank of England, under the title of "The West India Compensation Account;" and such Certificates shall be made out from time to time for a sum not exceeding in the whole the principal sum of *Thirteen Millions Five Hundred Thousand Pounds* Sterling.

2. Interest of the Certificates chargeable on the Consolidated Fund.

Provided always, and be it Enacted, That the Interest which shall be payable upon the principal sums specified in the said Certificates, shall be charged upon and made payable out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and the said Commissioners for the Reduction of the National Debt, or the Comptroller General or Assistant Comptroller acting under them, shall certify to the Lords of the Treasury from time to time the Sum required to be issued out of the said Consolidated Fund for that purpose; and upon receipt of the said Certificate the said Lords of the Treasury or any *Three* or more of them shall by Warrant under their hands cause the Sum stated in the said Certificates to be issued from time to time to the Governor and Company of the Bank of England, to be by them placed to the said "West India Compensation Account," standing in the Names of the said Commissioners in the Books of the said Bank.

3. Certificates when made out to be signed by Comptroller General or Assistant Comptroller.

And be it further Enacted, That the said Certificates shall be made out for the whole amount of the sum of money awarded to any Person or Persons under the provisions of the said recited Act of the third and fourth Years of the Reign of King WILLIAM the Fourth, or in sums of even Pounds, or the fractional parts of a Pound sterling (save and except that no fraction less than One Penny shall be contained in any such Certificate) as the said Commissioners, or the Comptroller General, or Assistant Comptroller acting under them shall deem most convenient; and previous to the issue of any such Certificates, such respective Certificates shall be signed by the said Comptroller General, or said Assistant Comptroller, and be countersigned by the Actuary or other check Officer acting under the said Commissioners, and shall be entered in proper books kept at the National Debt Office for that purpose.

4. Comptroller General or Assistant

And be it Enacted, That upon demand being made for the payment of any award for compensation under the provisions of the said Act,

Act, the said Comptroller General or Assistant Comptroller, or other proper Officer of the said Commissioners, may draw upon the Cashiers of the Bank of England on account of the West India Compensation, for the payment of the sum so demanded, together with the Interest due thereon, (save and except that interest shall not be computed or allowed upon any fractional part of a Pound sterling) or issue a Certificate or Certificates, made out and signed as hereinbefore directed, to the Person or Persons, or to his, her or their attorney or attornies, executors or administrators, to whom any sum shall be awarded for compensation of the like amount as the sum so awarded, (the fractions of a Penny excepted), for the payment of and in full satisfaction for the sum of money awarded to such Person or Persons respectively under the provisions of the said Act; and the principal sum specified in such Certificate, together with the Interest due thereon, (save and except that interest shall not be computed or allowed upon any fractional part of a Pound sterling) shall be payable at the Bank of England upon the production of such Certificate or Certificates to the Cashiers of the said Bank); and the said Cashiers are hereby required, upon the production of the same, to pay the Principal contained in such Certificate or Certificates accordingly, together with the Interest thereon, out of the Monies standing in the names of the said Commissioners for the Reduction of the National Debt, under the title of "The West India Compensation Account" aforesaid, after which the said Certificates shall be cancelled by such Cashier or Cashiers, and delivered up to the said Commissioners.

Comptroller and Officer of the Commissioners of the National Debt, may draw for payment of Claim, or issue Certificates.

Provided always, and be it Enacted, That the Cashier or Cashiers of the Bank shall receive as money from time to time from any person or persons any of the said Certificates which shall be presented to them in payment of the whole or of any part of any Instalment due from time to time upon the said Fifteen Millions; and in all such cases the Interest which shall happen to be then due upon the said Certificate or Certificates presented to such Cashier or Cashiers at the time of paying up any Instalment, shall be added to the principal sum stated in such Certificate, and shall be received and accounted as one entire sum.

5. Certificates may be received towards payment of Instalments on the Loan.

AND whereas it is expedient to make provision for the payment of the Interest which will become payable in respect of the sum of Twenty Millions of Pounds sterling, directed by the said recited Act of the third and fourth years of the reign of King WILLIAM the Fourth to be paid to the persons entitled to compensation under the provisions of the said Act; BE it therefore Enacted, That the Interest upon the said sum of Twenty Millions shall be after the rate of , which Interest shall commence and be paid to such person or persons from the *First* day of *August One thousand eight hundred and Thirty-four*,

6. Interest of the Compensation of Twenty Millions chargeable on the Consolidated Fund from 1 August 1834.

exclusive, up to and including the day of the payment of the principal Sum awarded to such person respectively, or up to and including the date of the said Certificate or Certificates (in case a Certificate shall be issued to such person or persons in lieu of paying the sum awarded in money), as the case may be, save and except that interest shall not be computed or allowed upon any fractional part of a Pound sterling; and the said Interest shall be charged upon and payable out of the said Consolidated Fund of the United Kingdom of Great Britain and Ireland; and the said Comptroller General, or Assistant Comptroller, shall certify to the Lords of the Treasury the sum required for the payment of all such Interest; and upon receipt of the said Certificate, the said Lords, or any *Three* or more of them, shall thereupon, by Warrant under their hands, cause the sum mentioned in the said Certificate to be issued out of the said Consolidated Fund to the Governor and Company of the Bank of England, to be by them placed to the said account of the Commissioners for the Reduction of the National Debt, on account of "The West India Compensation;" and the said Comptroller General or Assistant Comptroller, or other proper Officer of the said Commissioners, are hereby respectively authorized to draw upon the said Account, from time to time, for the payment of the said Interest to the several persons entitled thereto, or to his, her or their respective Attorney or Attornies, Executors or Administrators.

7. Expenses of the execution of the Act 3 & 4 Will. 4, to be deducted out of said Interest.

AND whereas the Lords Commissioners of the Treasury are by the said recited Act of the third and fourth years aforesaid, authorized to cause to be advanced out of the said sum of Twenty Millions, all such sums as may be necessary for the payment of all allowances, and defraying all other necessary charges and expenses in and about the execution of the Commission under the said recited Act; BE it therefore Enacted, That the said Lords of the Treasury, or any *Three* or more of them, previously to the issuing out of the said Consolidated Fund the sum required for the payment of the Interest on the said sum of Twenty Millions, may order and direct to be set apart therefrom the sum required to defray the Expenses attending the carrying into execution the provisions of the said recited Act of the third and fourth years aforesaid.

8. Provision not made by Barbadoes as required by 3 & 4 Will. 4, c. 73.

AND whereas it is enacted by the said recited Acts of the third and fourth years of the reign of King WILLIAM the Fourth, that no part of the said sum of Twenty Millions of Pounds sterling shall be applied or shall be applicable to the purposes aforesaid, for the benefit of any person now entitled to the services of any Slave in any of the Colonies therein mentioned, unless an order shall have been first made by His Majesty, with the advice of his Privy Council, declaring that adequate and satisfactory provision hath been made by Law in such Colony for giving

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giving effect to the said Act, by such further and supplementary enactments therein referred to, nor unless a Copy of such Order in Council, duly certified by one of the Clerks in Ordinary of His Majesty's Privy Council, shall, by the Lord President of the Council, have been transmitted to the Lords Commissioners of His Majesty's Treasury, or to the Lord High Treasurer for the time being, for their or his guidance or information: AND whereas no Order of The King in Council has been made, declaring that adequate and satisfactory provision hath been made by Law in the Colony of Barbadoes for giving effect to the said recited Act of the third and fourth year aforesaid, by such further and supplementary enactments as are specified in the said recited Act; BE it therefore Enacted, That in order to provide for the payments of the several sums which may be awarded to the several persons in the said Colony entitled to compensation under the provisions of the said Act, when and as soon as the provisions of the said recited Act shall have been duly complied with as aforesaid, that immediately after the *passing of this Act* there shall be written in and placed to the credit of the said Commissioners for the Reduction of the National Debt, in the Books of the said Bank, by the Accountant General for the time being of the said Governor and Company, in a new and separate account, under the title of "The Compensation Account of the Colony of Barbadoes," the sum of *One million Seven hundred and thirty-four thousand Three hundred and fifty-three Pounds Ten Shillings* of capital of Reduced Annuities, bearing Interest after the rate of Three Pounds and Ten Shillings per centum per annum; such capital in the said Annuities being equivalent to the sum of *One million Seven hundred and twenty-one thousand Three hundred and forty-five Pounds Nineteen Shillings and Seven-pence* sterling, estimating the price of such Three Pounds and Ten Shillings per centum per annum Annuities, after the rate of Ninety-nine Pounds Five Shillings sterling for every One hundred Pounds of such Reduced Three Pounds Ten Shillings per centum per annum Annuities; such price being the average price of the existing Reduced Three Pounds and Ten Shillings per centum per annum Bank Annuities, on the Third day of August One thousand eight hundred and Thirty-five, being the day on which the said Contract was entered into as aforesaid; which sum of *One million seven hundred and thirty-four thousand Three hundred and fifty-three Pounds Ten Shillings* shall be added to and consolidated with, and shall be deemed and taken as part of and be subject to all the conditions attending the Reduced Three Pounds and Ten Shillings per centum per annum Annuities existing at the time of the *passing of this Act*, forming part of the Public Debt of the United Kingdom of Great Britain and Ireland, and shall be assignable and transferable and redeemable accordingly, and the Dividends and Charges of Management arising upon the said sum of *One million seven hundred and thirty-four thousand Three hundred and fifty-three Pounds Ten Shillings* Reduced Three Pounds and Ten Shillings per centum per annum

Creation of reduced Three-and-a-half per cent. Annuities to provide for Barbadoes.

Annuities shall be chargeable, and the same are hereby charged upon and made payable out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland; the first half-yearly payment whereof shall commence from the *Tenth* day of *October One thousand eight hundred and Thirty-five* exclusive; and so much money shall from time to time be set apart and issued at the receipt of the Exchequer in England out of the Consolidated Fund of Great Britain, to the said Cashier or Cashiers of the Governor and Company of the Bank of England, as shall be sufficient to satisfy and pay the said Annuities to be created in respect of the said sum of *One million Seven hundred and twenty-one thousand Three hundred and forty-five Pounds Nineteen Shillings and Seven-pence*, together with the charges attending the same.

9. Stock may be transferred for Payment of Claimants in Barbadoes.

And be it further Enacted, That upon application to the said Commissioners for the Reduction of the National Debt, for the payment of any sum which shall hereafter be awarded to any person or persons in the said Colony of Barbadoes, for compensation under the provisions of the said Act, where the provision of the said recited Act shall have been complied with as aforesaid, the said Commissioners shall transfer or cause to be transferred from the said Account, to the person or persons entitled to such compensation, such a proportionate amount of the said Reduced Three Pounds and Ten Shillings per centum per annum Annuities, in satisfaction of the sum awarded to such person or persons, as the whole sum of *One million Seven hundred and twenty-one thousand Three hundred and forty-five Pounds Nineteen Shillings and Seven-pence* sterling shall bear to the whole capital of the said Reduced Three Pounds and Ten Shillings per centum per annum Annuities to be created under the provisions of this Act.

10. Indemnity to Commissioners, &c.

And be it further Enacted, That the several payments which shall be made by the said Commissioners for the Reduction of the National Debt under the provisions of the said Act of the third and fourth years aforesaid, or of this Act, to the Persons entitled to compensation, or to his, her or their respective Attorney or Attornies, Executors or Administrators, shall be deemed to be a final payment (and against which there shall be no appeal), in full of all demands of the sum of Money so awarded, and shall be a bar to and against any claim which may hereafter be set up or attempted to be set up or made by any other Person or Persons whomsoever against the said Commissioners or any Officer or Officers of the said Commissioners, to the Sum so awarded: Provided always, That nothing herein contained shall prevent or prejudice any Person or Persons from prosecuting such claim against the Person or Persons to whom payment shall have been made by the said Commissioners as aforesaid under the provisions of this Act; and the said Commissioners and the said Comptroller General and Assistant Comptroller, or other proper Officer acting

acting under the said Commissioners, and also the said Governor and Company and their Cashier or Cashiers, shall be and they are hereby severally indemnified and saved harmless from all or any suit or action at law or in equity, for any Act or Acts done or performed by them respectively in carrying into execution the provisions of this Act or of the said recited Act of the third and fourth years aforesaid.

11. Exemptions from Stamp Duties.

And be it further Enacted, That the said Contract for raising the said sum of Fifteen Millions, and all Receipts for Stock and Transfers of Stock, and all Certificates given or made under the provisions of this Act, or issued by the Commissioners for the Reduction of the National Debt, or by the Comptroller General or Assistant Comptroller, or by any other Officer of the said Commissioners, shall be exempted from Stamp Duty.

12 Persons counterfeiting Receipts for Contributions, &c. guilty of Felony.

And be it further Enacted, That if any Person or Persons shall forge, or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting any receipt or receipts for the whole of or any part or parts of the contributions towards the said sum of Fifteen Millions, either with or without the name or names of any Person or Persons being inserted therein as the contributor or contributors thereto, payer or payers thereof, or of any part or parts thereof, or any Certificate or other instrument to be issued by the Commissioners for the Reduction of the National Debt, or shall alter any number, figure or word therein, or utter or publish as true any such false, forged, counterfeited or altered Receipt or Receipts, Certificate or Certificates, Instrument or Instruments, with intent to defraud the Governor and Company of the Bank of England, or the Commissioners for the Reduction of the National Debt, or any body politic or corporate, or any person or persons whatsoever, every such person or persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or willingly acting or assisting in the forging or counterfeiting, or altering, uttering or publishing as aforesaid, being thereof convicted in due form of law, shall be adjudged guilty of *Felony*, and shall suffer death as a felon, without benefit of clergy.

13. No Fee to be taken for receiving Contributions, or paying or transferring Annuities, on Penalty of 20 *l.*

And be it further Enacted, That no Fee, Reward or Gratuity whatsoever shall be demanded or taken of any of His Majesty's subjects for receiving or paying the said Subscription or Contribution Monies or any of them, or for any receipt concerning the same, or for paying the said Annuities or any of them, or for any Transfer of any sum great or small to be made in pursuance of this Act, upon pain that any Officer or Person offending by taking or demanding any such Fee, Reward or Gratuity, shall for every such offence forfeit the sum of *Twenty* Pounds to the party aggrieved, with full costs of suit, to be recovered by Action

of Debt, Bill, Plaint or Information in any of His Majesty's Courts of Record at Westminster, wherein no essoign, protection, privilege or wager of law, injunction or order of restraint or any more than one imparlance shall be granted or allowed.

14. Persons sued may plead the General Issue.

And be it further Enacted, That if any Person or Persons shall be sued, molested or prosecuted for any thing done by virtue or in pursuance of this Act, such person or persons shall and may plead the General Issue, and give this Act and the special matter in Evidence in his, her or their defence or defences; and if afterwards a verdict shall pass for the Defendant or Defendants, or the Paintiff or Plaintiffs shall discontinue his, her or their action or prosecution, or be nonsuited, or judgment shall be given against him, her or them, upon demurrer or otherwise, then such Defendant or Defendants shall have *Treble* Costs awarded to him, her or them against any such Plaintiff or Plaintiffs.

Treble Costs.

6 WILL. IV.—SESS. 1835.

A

B I L L

To carry into further execution the Provisions of an Act passed in the Third and Fourth Years of His present Majesty for compensating Owners of Slaves upon the Abolition of Slavery.

(Prepared and brought in by Mr. Chancellor of the Exchequer and Mr. Baring.)

Ordered, by The House of Commons, to be Printed, 10 August 1835.

490. †

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21 *August* 1835.

A

B I L L

For carrying into effect the Treaty with The King of the French and The King of Denmark, for suppressing the Slave Trade.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS a Treaty was, on the twenty-sixth day of July in the year of our Lord One thousand eight hundred and Thirty-four concluded between His Majesty the King of the United Kingdom of Great Britain and Ireland, his Majesty the King of the French and his Majesty the King of Denmark, and signed at Copenhagen, whereby it was agreed as follows:— Preamble.

ARTICLE I.—His Majesty the King of Denmark accedes to the Conventions concluded and signed on the Thirtieth of November One thousand eight hundred and Thirty-one and the Twenty-second of March One thousand eight hundred and Thirty-three, between His Majesty The King of the United Kingdom of Great Britain and Ireland and his Majesty the King of the French, relating to the suppression of the Slave Trade, as well as to their Annex, excepting the reservations and modifications expressed in the Second, Third and Fourth Articles hereinafter given, which Articles shall be considered additional to the said Conventions and to their Annex, excepting the differences which necessarily result from the situation of his Danish Majesty as a party acceding to these Treaties after their conclusion.

His Majesty The King of the United Kingdom of Great Britain and Ireland and his Majesty the King of the French accept the said accession. All the Articles of these two Conventions and all the conditions of their Annex shall, in consequence, be held to

have been agreed upon, concluded and signed directly between His Majesty The King of the United Kingdom of Great Britain and Ireland, his Majesty the King of the French and his Majesty the King of Denmark.

Their said Majesties engage and promise reciprocally to each other to fulfil faithfully all the clauses, conditions and obligations thereof, excepting the reservations and modifications herein stipulated for; and in order to prevent any uncertainty, it has been agreed that the said Conventions, and the Annex containing the Instruction to Cruizers, shall be inserted here, word for word, as follows:

CONVENTION between His Majesty and the King of the French for the more effectual suppression of the Traffic in Slaves, signed at Paris, the Thirtieth day of November One thousand eight hundred and Thirty-one.

The Courts of Great Britain and France, being desirous of rendering more effectual the means of suppression which have hitherto been in force against the criminal traffic known under the name of the Slave Trade, they have deemed it expedient to negociate and conclude a Convention for the attainment of so salutary an object, and they have to this end named as their Plenipotentiaries, (that is to say), His Majesty The King of the United Kingdom of Great Britain and Ireland, the Right honourable Viscount Granville, Peer of Parliament, Member of the Privy Council, Knight Grand Cross of the most honourable Order of the Bath, Ambassador Extraordinary and Plenipotentiary at the Court of France; and his Majesty the King of the French the Lieutenant-General Count Horace Sebastiani, Grand Cross of the Order of the Legion of Honour, Member of the Chamber of Deputies, of the Departments, and Minister and Secretary of State for the Department of Foreign Affairs; who, after having exchanged their full powers, found to be in due form, have signed the following Articles:

ARTICLE I.—The mutual right of search may be exercised on board the Vessels of each of the two Nations, but only within the waters hereinafter described; namely,

1°. Along the Western Coast of Africa, from Cape Verd to the distance of ten degrees to the south of the equator; that is to say, from the tenth degree of south latitude to the fifteenth degree of north latitude, and as far as the thirtieth degree of west longitude, reckoning from the Meridian of Paris.

2°. All round the Island of Madagascar to the extent of twenty leagues from that Island.

3°. To

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3°. To the same distance from the coasts of the Island of Cuba.

4°. To the same distance from the coasts of the Island of Porto Rico.

5°. To the same distance from the coasts of Brazil.

It is, however, understood that a suspected vessel descried and begun to be chased by the cruizers, whilst within the said space of twenty leagues, may be searched by them beyond those limits, if, without having ever lost sight of her, they should only succeed in coming up with her at a greater distance from the coast.

ARTICLE II.—The right of searching Merchant Vessels of either of the two Nations in the waters hereinbefore mentioned shall be exercised only by Ships of War whose Commanders shall have the rank of Captain, or at least that of Lieutenant in the navy.

ARTICLE III.—The number of Ships to be invested with this right shall be fixed each year by a special agreement; the number of each Nation need not be the same; but in no case shall the number of the Cruizers of the one Nation be more than double the number of the Cruizers of the other.

ARTICLE IV.—The names of the Ships and of their Commanders shall be communicated by each of the Contracting Governments to the other; and information shall be reciprocally given of all changes which may take place in the Cruizers.

ARTICLE V.—Instructions shall be drawn up and agreed upon in common by the two Governments for the Cruizers of both Nations; which Cruizers shall afford to each other mutual assistance in all circumstances in which it may be useful that they should act in concert.

The Ships of War authorized to exercise the reciprocal right of search, shall be furnished with a special authority from each of the two Governments.

ARTICLE VI.—Whenever a Cruizer shall have chased and overtaken a Merchant Vessel, as liable to suspicion, the Commanding Officer, before he proceeds to the search, shall exhibit to the Captain of the Merchant Vessel the special orders which confer upon him, by exception, the right to visit her; and in case he shall ascertain the Ship's papers to be regular,

and her proceedings lawful, he shall certify upon the log-book of the Vessel, that the search took place only in virtue of the said orders; these formalities having been completed, the Vessel shall be at liberty to continue her course.

ARTICLE VII.—The Vessels captured for being engaged in the Slave Trade, or as being suspected of being fitted out for that infamous traffic, shall, together with their crews, be delivered over without delay to the jurisdiction of the Nation to which they shall belong. It is furthermore distinctly understood, that they shall only be judged according to the laws in force in their respective countries.

ARTICLE VIII.—In no case shall the right of mutual search be exercised upon the Ships of War of either Nation.

The two Governments shall agree upon a particular signal, with which those Cruizers only shall be furnished which are invested with this right, and which signal shall not be made known to any other Ship not employed upon this service.

ARTICLE IX.—The High Contracting Parties to the present Treaty agree to invite the other Maritime Powers to accede to it within as short a period as possible.

ARTICLE X.—The present Convention shall be ratified, and the ratifications of it shall be exchanged within one month, or sooner, if it be possible.

In faith of which, the Plenipotentiaries have signed the present Convention, and have affixed thereto the Seal of their Arms.

Done at Paris, the Thirtieth November One thousand Eight hundred and Thirty-one.

(signed) GRANVILLE. (L. S.)
(signed) HORACE SEBASTIANI. (L.S.)

SUPPLEMENTARY CONVENTION between His Majesty and the King of the French, for the more effectual Suppression of the Traffic in Slaves, signed at Paris, the Twenty-second day of March One thousand eight hundred and Thirty-three.

His Majesty The King of the United Kingdom of Great Britain and Ireland, and his Majesty the King of the French, having felt the necessity of developing some of the Clauses contained in the Convention which was signed between their Majesties on the Thirtieth day of November One thousand eight hundred and Thirty-one, relating to the suppression of the crime of Slave Trade, have named as their Plenipotentiaries for this purpose; (to wit)

His

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His Majesty The King of the United Kingdom of Great Britain and Ireland the Right Honourable Granville Viscount Granville, Peer of the United Kingdom, Knight Grand Cross of the Most honourable Order of the Bath, Member of the Privy Council of His Britannic Majesty, and His Ambassador Extraordinary and Plenipotentiary to the Court of France; and his Majesty the King of the French Monsieur Charles Leonce Achille Victor, Duc de Broglie, Peer of France, Knight of the Royal Order of the Legion of Honour, Minister and Secretary of State for the Department of Foreign Affairs; who, after having exchanged their powers, which have been found in good and due form, have agreed on the following Articles:

ARTICLE I.—Whenever a Merchant Vessel navigating under the Flag of one of the two Nations shall have been detained by the Cruizers of the other duly authorized to that effect, conformably to the provisions of the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one, such Merchant Vessel, as also her master, her crew, her cargo and the slaves who may be on board, shall be carried to such places as shall have been appointed by the Contracting Parties respectively, in order that proceedings may be there instituted respecting them agreeably to the law of each country, and they shall be delivered over to the authorities appointed for that purpose by the respective Governments.

When the Commander of the Cruizer shall not think proper to take upon himself the carrying in and delivering up the detained Vessel, he shall not entrust that duty to an Officer below the rank of Lieutenant in the Navy.

ARTICLE II.—The Cruizers of the two Nations authorized to exercise the right of visit and detention, in execution of the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one, shall, in all that relates to the formalities of the visit and of the detention, as well as to the measures to be taken for delivering up Vessels suspected of being engaged in the Slave Trade to the respective jurisdictions, conform strictly to the Instructions annexed to the present Convention, and which shall be considered as an integral part thereof.

The Two High Contracting Parties reserve to themselves the power of making in these Instructions, by common consent, any modifications which circumstances might render necessary.

ARTICLE III.—It is clearly understood that, if the Commander of a Cruizer of one of the two Nations shall have reason to suspect that a Merchant Vessel navigating under convoy of or in company with a Vessel of War of the other Nation, has engaged in the Slave Trade, or has been fitted out for the said Trade, he is to make known his suspicions to the Commander of the Convoy or Vessel of War, who shall proceed alone to visit the suspected Vessel; and in case the latter Commander should find that the suspicion is well founded, he shall cause the Vessel to be taken, together with her master, her crew and her cargo, and the slaves who may be on board, into a Port of his own Nation, in order that proceedings may be instituted with regard to them agreeably to the respective laws.

ARTICLE IV.—As soon as any Merchant Vessel detained and sent before the Tribunals aforesaid, shall arrive at one of the Ports respectively pointed out, the Commander of the Cruizer which shall have detained her, or the Officer appointed to bring her in, shall deliver to the authorities appointed for that purpose, one copy signed by him of all the lists, declarations and other documents specified in the Instructions annexed to the present Convention; and the said authorities shall in consequence proceed to a survey of the detained Vessel and her cargo, and to an inspection of her crew and of the slaves who may be on board, after having previously given notice of the time of such survey and inspection to the Commander of the Cruizer, or to the Office who shall have brought in the Vessel, in order that he, or some person in his behalf, may be present thereat.

A Declaration (Procès verbal) of these proceedings shall be drawn up in duplicate, signed by the persons who shall have acted therein, or been present at the same; and one of the said Declarations shall be delivered to the Commander of the Cruizer, or to the Officer who shall have been appointed to bring in the detained Vessel.

ARTICLE V.—The Vessels detained, as before mentioned, their masters, crews and cargoes, shall be forthwith proceeded against before the proper Tribunals in the respective Countries, according to the established forms; and if in consequence of such proceedings, the said Vessel shall be found to have been employed in the Slave Trade, or to have been fitted out for the purposes thereof, the master, the crew and the accomplices, as well as the Ship and cargo, shall be dealt with conformably to the respective laws of the two Countries.

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In case the said Vessels shall be confiscated, a portion of the proceeds arising from their sale shall be paid into the hands of the Government to which the captor belongs, to be distributed among the officers and crew of the capturing Ship. This portion shall be Sixty-five per centum of the net produce of the sale, as long as such a distribution of the proceeds is consistent with the respective laws of the two Countries.

Article VI.—Any Merchant Vessel of either of the two Nations visited and detained in pursuance of the Convention of the Thirtieth day of November One thousand eight hundred and Thirty-one, and of the provisions hereinbefore recited, shall, unless proof be given to the contrary, be held and taken of right to have engaged in the Slave Trade, or to have been fitted out for the purposes of such traffic, if any of the particulars hereinafter specified shall be found in her outfit or equipment, or on board of her; videlicet,

1°. Having her hatches fitted with open gratings, instead of being close hatches, as usual in Merchant Vessels.

2°. Having more divisions or bulk-heads in the hold or on deck than necessary for Trading Vessels.

3°. Having on board spare planks, either actually fitted in that shape, or fit for readily laying a second or moveable deck, or slave deck.

4°. Having on board shackles, bolts or handcuffs.

5°. Having on board a supply of water more than sufficient for the consumption of her crew as a Merchant Vessel.

6°. Having on board an unreasonable number of water casks, or other vessels for holding water, unless the master shall produce a certificate from the Custom House from the place at which he cleared outwards, stating that a sufficient security had been given by the owner of such Vessel that such casks or other vessels should only be used for the reception of palm oil, or be employed in any other lawful trade.

7°. Having on board a greater quantity of mess-tubs or kids than requisite for the use of her crew as a Merchant Vessel.

8°. Having on board two or more copper boilers, or even one evidently larger than requisite for the use of her crew as a Merchant Vessel.

9°. Having on board a quantity of rice or farinha, flour of the manioc of Brazil, or cassada, or maize, or Indian corn, beyond any probable requisite provision for the use of her crew, and such rice, flour, maize or Indian corn, not being entered on the Manifest as part of the cargo for trade.

ARTICLE VII.—No compensation shall in any case be granted either to the master or to the owner, or to any other person interested in the equipment or lading of a Merchant Vessel, in which any of the particulars specified in the preceding Article shall be found, even if the Tribunals should not pronounce any condemnation in consequence of her detention.

ARTICLE VIII.—When a Merchant Vessel of either of the two Nations shall have been visited and detained illegally, or without sufficient cause of suspicion, or when the visit and detention shall have been attended with any abuse or vexatious acts, the Commander of the Cruizer, or the Officer who shall have boarded the said Vessel, or the Officer who shall have been appointed to bring her in, as the case may be, shall be liable to costs and damages to the master and to the owners of the Vessel and cargo.

These costs and damages may be awarded by the Tribunal before which the proceedings against the detained Vessel, her master, crew and cargo shall have been instituted, and the Government of the country to which the Officer who gave occasion for such award shall belong, shall pay the amount of the said costs and damages within the period of one year from the date of the award.

ARTICLE IX.—If in the visit or detention of a Merchant Vessel, made in virtue of the provisions of the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one, or of the present Convention, any abuse or vexation shall have been committed, but the Vessel shall not have been delivered over to the jurisdiction of her own Nation, the master of the Vessel shall make a declaration on oath of the abuses or vexations of which he has to complain, and of the costs and damages to which he lays claim, before the competent authorities in the first Port of his own country at which he may arrive, or before the Consular Agent of his nation, if the Vessel proceeds to a foreign Port where there is such an Agent: this declaration shall be confirmed by an examination under oath of the principal persons of the crew or passengers who have witnessed the visit or detention; and one

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formal Declaration (Procès verbal) of the whole shall be drawn up, and two copies thereof delivered to the master, who shall forward one of them to his own Government, in support of his claim for costs and damages: It is understood that if any compulsory circumstances should prevent the master from making his declaration, it may be made by the owner, or by any other person interested in the Vessel or in her cargo.

On the official transmission of one copy of the formal Declaration (Procès verbal) above mentioned, through the channel of the respective Embassies, the Government of the country to which the Officer charged with abuses or vexations shall belong shall forthwith institute an inquiry into the matter; and if the validity of the complaint be admitted, the said Government shall cause to be paid to the Master or Owner, or to any other person interested in the Vessel which has been molested, or in her cargo, the amount of costs and damages which may be due to them.

Article X.—The two Governments engage reciprocally to communicate each to the other, free of expense and upon application being made, copies of all the proceedings instituted and judgments given, relative to Vessels vested or detained in execution of the provision of the Convention of the Thirtieth November One thousand eight hundred and Thirty-one and of the present Convention.

Article XI.—The two Governments agree to ensure the immediate freedom of all Slaves who shall be found on board Vessels visited and detained in virtue of the stipulations of the principal Convention hereinbefore referred to, or of the present Convention, whenever the offence of trafficking in Slaves shall have been established by the sentence of the respective Tribunals; they reserve to themselves, however, for the welfare of the Slaves themselves, the right to employ them as servants or free labourers, conformably to their respective laws.

Article XII.—It is hereby agreed between the two High Contracting Parties, that in all cases in which a Vessel under the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one, or under this Supplementary Convention, shall be detained by their respective Cruizers, as having been engaged in the Slave Trade, or fitted out for the purposes thereof, and shall be placed at the disposal of either Government for the purpose of being sold in consequence of a sentence of confiscation pronounced by a competent Tribunal, the said Vessel shall be broken up, in

whole or in part, before the sale, whenever its peculiar construction or outfit shall give reason to fear that it may be again employed in the Slave Trade or any other illicit Traffic.

Article XIII.—The present Convention shall be ratified, and the Ratifications shall be exchanged at Paris within the space of one month, or sooner if possible.

In witness whereof the above-named Plenipotentiaries have signed Duplicate in the present Convention, and have affixed thereunto the Seals of their Arms.

Done at Paris, the Twenty-second of March One thousand eight hundred and Thirty-three.

(signed) Granville. (L. S.)
V. Broglie. (L. S.)

Instructions to Cruizers.

1°. Whenever a Merchant Vessel of either of the two Nations shall be visited by a Cruizer of the other, the Officer commanding the Cruizer shall exhibit to the master of such Vessel the special Orders which confer upon him the exceptional right of visit, and shall deliver to him a certificate, signed by him, specifying his rank in the Navy of his country, with the name of the Ship which he commands, and declaring that the only object of such visit is to ascertain whether the Vessel is engaged in the Slave Trade, or is fitted out for the purposes of such traffic: When the visit is made by another Officer of the Cruizer than the Commander, this Officer shall not be under the rank of Lieutenant in the Navy; and in this case such Officer shall exhibit to the Master of the Merchant Vessel a copy of the special Orders above mentioned, signed by the Commander of the Cruizer, and shall likewise deliver to him a certificate, signed by him, specifying the rank which he holds in the Navy, the name of the Commander under whose orders he is acting, and of the Cruizer to which he belongs, and the object of his visit, as hereinbefore recited. If it shall be ascertained by the visit, that the Ship's papers are regular, and her proceedings lawful, the Officer shall certify, upon the Log Book of the Vessel, that the visit took place only in virtue of the special Orders above mentioned, and the Vessel shall be permitted to continue her course.

2°. If, in consequence of the visit, the Officer commanding the Cruizer shall be of opinion that there are sufficient grounds for believing that the Vessel is engaged in the Slave Trade, or has been fitted out for that traffic, and if he shall in consequence determine to detain her, and to have her delivered up to the respective jurisdiction, he shall forthwith cause a list to be made out, in duplicate,

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of all the papers found on board; and he shall sign this list, and the duplicate, adding to his name his rank in the Navy, and the name of the Vessel under his command; he shall, in like manner, make out and sign in duplicate a declaration, stating the place and time of the detention, the name of the Vessel, that of her master, and those of the persons composing her crew; and also the number and condition of the slaves found on board. This declaration shall further contain an exact description of the state of the Vessel and her cargo.

3°. The Commander of the Cruizer shall, without delay, carry or send the detained Vessel, with her master, crew, cargo and the slaves found on board, to one of the Ports hereinafter specified, in order that proceedings may be instituted in regard to them, conformably to the respective laws of each country, and he shall deliver the same to the competent authorities, or to the persons who shall have been specially appointed for that purpose by the respective Governments.

4°. No person whatever shall be taken out of the detained Vessel, nor shall any part of her cargo, nor of the slaves found on board, be removed from her until after such Vessel shall have been delivered over to the authorities of her own Nation, excepting only when the removal of the whole or of part of the crew, or of the slaves found on board, shall be deemed necessary, either for the preservation of their lives, or from any other consideration of humanity, or for the safety of the persons who shall be charged with the navigation of the Vessel after her detention; in this case the Commander of the Cruizer, or the Officer appointed to bring in the detained Vessel, shall make a declaration of such removal, in which he shall specify the reasons for the same; and the masters, sailors, passengers or slaves so removed shall be carried to the same Port as the Vessel and her cargo, and they shall be received in the same manner as the Vessel, agreeably to the regulations hereinafter set forth.

5°. All such French Vessels as shall be detained by the Cruizer of His Britannic Majesty on the African Station shall be carried and delivered up to the French Jurisdiction at Goree.

All such French Vessels as shall be detained by the British Squadron on the West India Station shall be carried and delivered up to the French Jurisdiction at Martinique.

All such French Vessels as shall be detained by the British Squadron on the Madagascar station, shall be carried and delivered up to the French jurisdiction at the Isle of Bourbon.

All such French Vessels as shall be detained by the British Squadron on the Brazilian Station, shall be carried and delivered up to the French Jurisdiction at Cayenne.

All such British Vessels as shall be detained by the Cruizers of His Majesty the King of the French on the African Station, shall be carried and delivered up to the jurisdiction of His Britannic Majesty at Bathurst, on the River Gambia.

All such British Vessels as shall be detained by the French Squadron on the West India Station, shall be carried and delivered up to the British Jurisdiction at Port Royal, in Jamaica.

All such British Vessels as shall be detained by the French Squadron on the Madagascar Station, shall be carried and delivered up to the British Jurisdiction at the Cape of Good Hope.

All such British Vessels as shall be detained by the French Squadron on the Brazilian Station, shall be carried and delivered up to the British Jurisdiction at the Colony of Demerara.

6°. As soon as a Merchant Vessel, which shall have been detained as aforesaid, shall arrive at one of the ports or places above mentioned, the Commander of the Cruizer, or the Officer appointed to bring in the detained Vessel, shall forthwith deliver to the authorities duly appointed for that purpose by the respective Governments the Vessel and her cargo, together with the master, crew, passengers and slaves found on board, as also the papers which shall have been seized on board the Vessel, and one of the lists made out in duplicate of the said papers, the other remaining in his possession: such Officer shall at the same time deliver to the said authorities one of the declarations made out in duplicate as hereinbefore specified; adding thereto a statement of any changes which may have taken place from the time of detention to that of the delivery, as well as a copy of the declaration of any removals which may have taken place as above provided for; in delivering over these several documents, the Officer will make attestation of their truth on oath and in writing.

7°. If the Commander of a Cruizer of either of the High Contracting Parties who shall be duly furnished with the aforesaid special instructions shall have reason to suspect that a Merchant Vessel sailing under convoy, or in company with a Ship of War of the other party, is engaged in the Slave Trade, or has been fitted out for the purpose of that traffick, he shall confine himself to the communicating his suspicions to the Commander of the Convoy or of the Ship of War, and he shall leave it to the latter to proceed alone to a visit of the suspected Vessel, and to deliver her up, if the case require it, to the jurisdiction of her own country.

8°. The Cruizers of the two Nations shall conform strictly to the tenor of these Instructions, which are to be considered as a development of the clauses of the principal Convention of the Thirtieth

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Thirtieth of November One thousand eight hundred and Thirty-one, as well as of the Convention to which they are annexed.

The undersigned Plenipotentiaries have agreed, in conformity with the second Article of the Convention signed by them on this day, the Twenty-second of March One thousand eight hundred and Thirty-three, that the preceding Instructions shall be annexed to the said Convention, and considered as an integral part thereof.

Paris, the Twenty-second of March One thousand eight hundred and Thirty-three.

(signed) GRANVILLE. (L.S.)
V. BROGLIE. (L.S.)

ARTICLE II.—It is agreed, with reference to Article Three of the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one, herein above transcribed, that his Majesty the King of Denmark shall fix, according to his convenience, the number of Danish Cruizers which shall be employed on the service mentioned in the said Article, and the stations on which they shall cruize.

ARTICLE III.—The Government of his Majesty the King of Denmark shall make known to the Government of Great Britain and of France, conformably to Article Fourth of the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one the Danish Ships of War which are to be employed in the suppression of the trade, in order to obtain for their Commanders the necessary warrants.

The warrants which are to be delivered by Denmark shall be issued as soon as notification of the number of British and French Cruizers intended to be employed shall be made to the Danish Government.

ARTICLE IV.—It is agreed, with reference to the fifth Article of the Instructions annexed to the Supplementary Convention of the Twenty-second of March One thousand eight hundred and Thirty-three, that all Danish Vessels which, in in pursuance of the Convention herein above transcribed, may be detained by the Cruizers of His Majesty The King of the United Kingdom of Great Britain and Ireland, or of his Majesty the King of the French, employed on the American station, shall be carried and delivered to the Danish Authorities at Santa Cruz.

That all Danish Vessels detained by British or French Cruizers on the African station shall be delivered to the Danish Authorities at the Fort of Christiansburg, on the Gold Coast of Guinea.

And that every Vessel under the Danish Flag which shall be detained by the British or French Cruizers employed on the Madagascar Station shall be delivered to the authorities at one or other of the Danish Possessions herein above mentioned, or to the Danish Authorities at Tranquebar, in the East Indies, if circumstances shall render the last-mentioned destination desirable.

Article V.—The present Treaty shall be ratified, and the Ratifications shall be exchanged at Copenhagen in the space of three months, or sooner, if possible.

And whereas the said Treaty was ratified by and between His Majesty The King of the United Kingdom of Great Britain and Ireland, his Majesty the King of the French and his Majesty the King of Denmark respectively, and such Ratifications were exchanged on the Nineteenth day of October in the year of our Lord One thousand eight hundred and Thirty-four:

And whereas it is expedient and necessary that effectual Provision should be made for carrying into execution the Provisions of the said Treaty;

Be it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for any Officer commanding any Ship of War of His Majesty or of the King of Denmark, who shall have such rank as by the Second Article of the said Convention of the Thirtieth November One thousand eight hundred and Thirty-one is agreed, and who shall be duly instructed and authorized and furnished according to the several provisions of the said two Conventions, and within the Waters described, and according to the provisions and exceptions contained in the First Article of the said Convention of the Thirtieth November One thousand eight hundred and Thirty-one, to exercise the right of visiting and searching any Merchant Vessel of either of the said two Nations of Great Britain and Denmark liable to suspicion and suspected of having engaged in or of having been employed in the Slave Trade, or of having been fitted out for the purposes of such traffic, according to the several provisions and instructions of the said two Conventions, except as in the said Third Article of the said Supplementary Convention is excepted; and it shall further be lawful for such Officer, under such circumstances, and upon sufficient grounds, to exercise the right of detaining and of sending or carrying in and delivering over any such Vessel, together with its Master, Sailors, Passengers, Slaves and Cargo to the authorities appointed by the respective Governments of Great Britain, France and Denmark

1. Commanding Officer of Ships of War of His Majesty or the King of Denmark to search Merchant Vessels of either Nation.

Denmark for the purposes of the said Treaty of the Twenty-sixth of July One thousand eight hundred and Thirty-four, and to one of the jurisdictions in the said instructions mentioned as the same are altered and modified by the said Treaty, in order that proceedings may be instituted conformably to the respective laws of the said two countries of Great Britain and Denmark; and all such Commanders of His Majesty's Ships are hereby authorized and required, in the exercise of such rights of visiting, searching, detaining, sending, carrying in and delivering as aforesaid, to execute and comply with the said several provisions and instructions of the said two Conventions as apply thereto respectively, and as the same are altered and modified by the said Treaty of the Twenty-sixth of July One thousand eight hundred and Thirty-four.

2. Any proceedings instituted against crew, &c. of captured Vessels to be conducted in name of the King of Great Britain and Ireland.

And be it further Enacted, That where any such Officer of His Majesty the King of Denmark shall send, carry or deliver over as aforesaid any such Merchant Vessel, wholly or in part owned by any subject or subjects of His Majesty the King of the United Kingdom of Great Britain and Ireland, all and every proceedings instituted in the Tribunals hereinafter mentioned in regard to such Merchant Vessel and its Crew, Cargo and Slaves, and in respect to the cause, shall be conducted in the name of His said Majesty the King of the United Kingdom of Great Britain and Ireland by some person duly thereunto authorized; (that is to say) all Ships, Cargoes and Slaves which shall be detained by the Cruizers of His Majesty the King of Denmark and delivered up to the jurisdiction of His Majesty at Bathurst on the River Gambia, shall be proceeded against and adjudicated in the Vice-Admiralty Court at Sierra Leone; and all other Ships, Cargoes and Slaves which may in like manner be detained by the Cruizers of his Majesty the King of Denmark, and delivered up to the jurisdiction of his Majesty, either at Jamaica, the Cape of Good Hope or Demerara, shall be proceeded against and adjudicated in the Vice-Admiralty Courts established in the said Colonies respectively, and the Judges and other Officers of the said Vice-Admiralty Courts respectively are hereby authorized to take cognizance thereof accordingly.

3. Any of the Particulars specified in Sixth Article found on board captured Vessels, such Vessel to be deemed engaged in Slave Trade.

And be it further Enacted and Declared, That if any of the particulars specified in the Sixth Article of the said Convention of the Twenty-second of March One thousand eight hundred and Thirty-three, shall be found in the outfit or equipment of or on board of any such Merchant Vessel, wholly or in part owned as last aforesaid, and visited and detained in pursuance of the said Treaty, such Vessel shall, unless proof be given to the contrary, be held and taken to have engaged in the Slave Trade, or to have been fitted out for the purpose of such traffic, and to be equipped and employed for the purposes declared unlawful by an Act of Parliament passed in the fifth year of the reign of his

Majesty King GEORGE the Fourth, intituled, "An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade."

4. A portion of the Proceeds arising from Sale of Slave Vessel captured by a Danish Officer, to be paid to King of Denmark.

And be it further Enacted, That in case any such Merchant Vessel, wholly or in part owned as aforesaid, shall be brought in by any Officer of his Majesty the King of Denmark, duly authorized, and shall be confiscated according to the laws of this Country, and the provisions of the said two Conventions (as the same are altered and modified by the said Treaty) and of the said Act of Parliament, passed in the fifth year of the reign of his Majesty King GEORGE the Fourth, it shall be lawful for His Majesty the King of the United Kingdom of Great Britain and Ireland, to direct that a portion of the proceeds arising from the sale thereof, shall be paid into the hands of the Government of his Majesty the King of Denmark, according to the provisions of the Fifth Article of the said Convention of the Twenty-second day of March One thousand eight hundred and Thirty-three, and any portion of the proceeds arising from the sale of any Ship, agreed to be paid into the hands of the Government of His Majesty the King of the United Kingdom of Great Britain and Ireland, according to the provisions of the said Fifth Article, or Cargo, shall be paid to such Person or Persons as the Commissioners of His Majesty's Treasury may direct or appoint to receive the same, to and for the use of the Captors, according to the provision of the said Fifth Article, and that the same, after deducting all necessary expenses, shall be distributed to and amongst the Officers and Crew of the capturing Ship, in the manner hereinafter directed for the distribution of Bounties on Slaves taken on board the said Vessels.

5. Bounty of Five Pounds to be paid to Commanders and Owners for every Slave found on board condemned Vessel.

And be it further Enacted, That there shall be paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland to the Commanders, Officers and Crews of His Majesty's Ships authorized to make seizures under the said Treaty of the Twenty-sixth of July One thousand eight hundred and Thirty-four, a Bounty of *Five* Pounds of lawful money of Great Britain, for every man, woman and child Slave seized and found on board a British or Danish Ship or Vessel taken, delivered over and condemned in pursuance of the provisions of the said Treaty and of this Act; such Bounty to be issued and paid by Order from the said Commissioners of His Majesty's Treasury, and to be distributed to and amongst the Captors aforesaid, in such manner and proportions as His Majesty, His heirs and successors shall think fit to order and direct by any Order in Council or by any Proclamation to be made for that purpose.

6. Bounty to be paid on production of Certificate, signed by Officers appointed to receive Slaves.

Provided always, and be it further Enacted, That in order to entitle the Captors to receive the said Bounty Money, the number of men, women and children so taken, delivered over and condemned, shall be proved to the Commissioners of His Majesty's Treasury, by producing a copy,

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a copy, duly certified, of the Sentence or Decree of Condemnation, and also a Certificate under the hand of the proper Officer or Officers, military or civil, who may be appointed to receive such Slaves.

7. When Slaves seized without condemnation, Lords of Treasury empowered to grant a Moiety of Bounty.

And be it further Enacted, That where any Slaves, or Persons treated, dealt with, carried, kept or detained as Slaves, shall be taken or seized on board any British or Danish Ship or Vessel, in pursuance of the Provisions of the said Treaty and of this Act, but who shall not have been condemned, or shall not have been delivered over in consequence of death, sickness or other inevitable circumstance, it shall and may be lawful for the said Commissioners of His Majesty's Treasury, if to their discretion it shall seem meet, by Warrant signed by any *Three* or more of them, to direct the payment out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland of one *Moiety* of the Bounty which would have been due in each case respectively if the said Slaves had been delivered over and condemned.

8. Persons claiming benefit of Bounty, may resort to High Court of Admiralty for Judgment thereon.

Provided also, and be it further Enacted, That any Party or Parties claiming any benefit by way of Bounty under the provisions of this Act, or of any share of the proceeds of any Danish Vessel confiscated in pursuance of the provisions of the aforesaid Treaty, shall and may resort to the High Court of Admiralty for the purpose of obtaining the judgment of the said Court in that behalf; and that it shall and may be lawful for the Judge of the said High Court of Admiralty to determine thereon, and also to hear and determine any question of joint capture which may arise on any seizure made in pursuance of this Act, and to enforce any decrees or sentences of the said Vice-Admiralty Courts relating to any such seizure.

9. Regulations pertaining to the Distribution of Prize-Money.

And be it further Enacted, That all the provisions, rules, regulations, forfeitures and penalties respecting the delivery by Prize Agents of Accounts for examination and the distribution of Prize Money, and the accounting for and paying over the proceeds of prize, and the per centage due thereon to Greenwich Hospital, shall be and are hereby extended to all bounties and proceeds to be distributed under the provisions of this Act to the Officers and Crews of any of His Majesty's Ships or Vessels of War.

10. Where Damages sustained by illegal Detention of Vessels, Lords of Treasury to make Compensation.

And be it further Enacted, That where any illegal visit and detention, or any visit and detention without sufficient cause of suspicion, or any abuse or vexation, shall have taken place, and have been made by any Officer of His Majesty the King of Great Britain and Ireland, as is mentioned in the Eighth and Ninth Articles of the said Convention of the Twenty-second of March One thousand eight hundred and Thirty-three, it shall be lawful for the Commissioners of His Majesty's Treasury, by warrant signed by any *Three* or more of them, to direct payment to

be made out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, of any Costs and Damages which may be duly awarded according to the Provisions of the said two last-mentioned Articles: Provided always, That nothing herein contained shall exempt such Officer from his liability to make good the payments so made when lawfully called upon by order of the said Commissioners of His Majesty Treasury.

11. Where Judgment is given against Seizor, Lords of Treasury to defray Expenses by him incurred.

And be it further Enacted, That when any Seizure shall be made by any of the Commanders, Officers and Crews of His Majesty's Ships authorized to make Seizures under the aforesaid Treaty, and judgment shall be given against the Seizor, or when such Seizure shall be relinquished by him, it shall be lawful for the said Commissioners of His Majesty's Treasury, if to their discretion it shall seem meet, by warrant signed by any *Three* or more of them, to direct payment to be made out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, of such Costs and Expenses as the Seizor may have incurred in respect of such Seizure, or any proportionate part thereof.

12. Defendant may plead General Issue, and give this Act in Evidence.

And be it further Enacted, That if any action or suit shall be commenced either in Great Britain or elsewhere against any Person or Persons for any thing done in pursuance of the said Treaty or of this Act, in as far as it relates thereto, the Defendant or Defendants in such action or suit may plead the General Issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of the said Treaty or of this Act; and if it shall appear so to have been done, the Jury shall find for the Defendant or Defendants; and if the Plaintiff shall be nonsuited or discontinue his action after the Defendant or Defendants shall have appeared, or if judgment shall be given upon any verdict or demurrer against the Plaintiff, the Defendant or Defendants shall recover *Treble* Costs, and have the like remedy for the same as defendants have in other cases by law.

6 Will. IV.—Sess. 1835.

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B I L L

For carrying into effect the Treaty with The King of the French and The King of Denmark, for suppressing the Slave Trade.

(Prepared and brought in by Lord Viscount Palmerston and Mr. Baring.)

Ordered, by The House of Commons, *to be Printed,*
21 *August* 1835.

21 *August* 1835.

A

B I L L

For carrying into effect a Treaty with The King of The French and The King of Sardinia, for suppressing the Slave Trade.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS a Treaty was, on the eighth day of August in the year of our Lord One thousand eight hundred and Thirty-four, with an additional Article thereto on the eighth day of December in the same year, concluded between His Majesty The King of the United Kingdom of Great Britain and Ireland, his Majesty the King of the French, and his Majesty the King of Sardinia, and signed at Turin, whereby it was agreed as follows: Preamble.

ARTICLE I.—His Majesty the King of Sardinia accedes to the Conventions concluded and signed on the Thirtieth of November One thousand eight hundred and Thirty-one, and on the Twenty-second of March One thousand eight hundred and Thirty-three, between His Majesty The King of the United Kingdom of Great Britain and Ireland and His Majesty the King of the French, relating to the suppression of the Slave Trade, as well as to their Annexes, excepting the reservations and modifications expressed in the Second, Third and Fourth Articles hereinafter given, which Articles shall be considered additional to the said Conventions and to their Annexes, and excepting the differences which necessarily result from the situation of His Sardinian Majesty as a party acceding to the Conventions in question after their conclusion; His Majesty The King of the United Kingdom of Great Britain and Ireland, and his Majesty the King of the French, having accepted the said accession, all

the Articles of these two Conventions, and all the conditions of their Annexes, shall in consequence be held to have been concluded and signed in the same manner as the present Convention, directly between His Majesty The King of the United Kingdom of Great Britain and Ireland, his Majesty the King of the French, and his Majesty the King of Sardinia :

Their said Majesties engage and promise reciprocally to fulfil faithfully, excepting the reservations and modifications hereby stipulated for, all the clauses, conditions and obligations which result therefrom; and in order to prevent any uncertainty, it has been agreed that the above-mentioned Conventions, as well as their Annexes, shall be inserted here word for word, as follows :

CONVENTION between His Majesty and the King of the French for the more effectual Suppression of the Traffic in Slaves, signed at Paris, the Thirtieth day of November One thousand eight hundred and Thirty-one.

The Courts of Great Britain and of France, being desirous of rendering more effectual the means of suppression which have hitherto been in force against the criminal traffic known under the name of the Slave Trade, they have deemed it expedient to negociate and conclude a Convention for the attainment of so salutary an object, and they have to this end named as their Plenipotentiaries ; (that is to say) His Majesty The King of the United Kingdom of Great Britain and Ireland the Right honourable Viscount Granville, Peer of Parliament, Member of the Privy Council, Knight Grand Cross of the Most honourable Order of the Bath, Ambassador Extraordinary and Plenipotentiary at the Court of France ; and his Majesty the King of the French the Lieutenant-General Count Horace Sebastiani, Grand Cross of the Order of the Legion of Honour, Member of the Chamber of Deputies of the Departments, and Minister and Secretary of State for the Department of Foreign Affairs ; who, after having exchanged their full powers, found to be in due form, have signed the following Articles :

ARTICLE I.—The mutual right of search may be exercised on board the Vessels of each of the two Nations, but only within the waters hereinafter described ; namely,

1°. Along the Western Coast of Africa, from Cape Verd to the distance of ten degrees to the south of the equator; that is to say, from the tenth degree of south latitude to the fifteenth degree of north latitude, and

as

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as far as the thirtieth degree of west longitude, reckoning from the Meridian of Paris.

2°. All round the Island of Madagascar to the extent of twenty leagues from that island.

3°. To the same distance from the coasts of the Island of Cuba.

4°. To the same distance from the coasts of the Island of Porto Rico.

5°. To the same distance from the coasts of Brazil.

It is however understood, that a suspected Vessel descried and begun to be chased by the Cruizers whilst within the said space of twenty leagues, may be searched by them beyond those limits, if, without having ever lost sight of her, they should only succeed in coming up with her at a greater distance from the coast.

Article II.—The right of searching Merchant Vessels of either of the two Nations in the waters hereinbefore mentioned, shall be exercised only by Ships of War whose Commanders shall have the rank of Captain, or at least that of Lieutenant in the Navy.

Article III.—The number of Ships to be invested with this right shall be fixed each year by a special agreement; the number for each Nation need not be the same, but in no case shall the number of the Cruizers of the one Nation be more than double the number of the Cruizers of the other.

Article IV.—The names of the Ships, and of their Commanders, shall be communicated by each of the Contracting Governments to the other, and information shall be reciprocally given of all changes which may take place in the Cruizers.

Article V.—Instructions shall be drawn up and agreed upon in common by the two Governments for the Cruizers of both Nations, which Cruizers shall afford to each other mutual assistance in all circumstances in which it may be useful that they should act in concert. The Ships of War authorized to exercise the reciprocal right of search shall be furnished with a special authority from each of the two Governments.

Article VI.—Whenever a Cruizer shall have chased and overtaken a Merchant Vessel as liable to suspicion, the

Commanding Officer, before he proceeds to the search, shall exhibit to the Captain of the Merchant Vessel the special orders which confer upon him by exception the right to visit her; and in case he shall ascertain the Ship's papers to be regular, and her proceedings lawful, he shall certify upon the Log Book of the Vessel that the search took place only in virtue of the said orders: these formalities having been completed, the Vessel shall be at liberty to continue her course.

Article VII.—The Vessels captured for being engaged in the Slave Trade, or as being suspected of being fitted out for that infamous traffic, shall, together with their crews, be delivered over, without delay, to the jurisdiction of the Nation to which they shall belong: it is furthermore distinctly understood, that they shall only be judged according to the laws in force in their respective countries.

Article VIII.—In no case shall the right of mutual search be exercised upon the Ships of War of either Nation.

The two Governments shall agree upon a particular signal, with which those Cruizers only shall be furnished which are invested with this right, and which signal shall not be made known to any other Ship not employed upon this service.

Article IX.—The High Contracting Parties to the present Treaty agree to invite the other Maritime Powers to accede to it within as short a period as possible.

Article X.—The present Convention shall be ratified, and the ratifications of it shall be exchanged within one month, or sooner, if it be possible.

In faith of which, the Plenipotentiaries have signed the present Convention, and have affixed thereto the Seal of their Arms.

Done at Paris, the Thirtieth of November One thousand eight hundred and Thirty-one.

(signed) Granville. (L.S.)
Horace Sebastiani. (L.S.)

Supplementary Convention between His Majesty and the King of the French, for the more effectual Suppression of the Traffic in Slaves, signed at Paris, March Twenty-second One thousand eight hundred and Thirty-three.

His Majesty The King of the United Kingdom of Great Britain and Ireland, and his Majesty the King of the French, having

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having felt the necessity of developing some of the Clauses contained in the Convention which was signed between their Majesties on the Thirtieth of November One thousand eight hundred and Thirty-one, relating to the suppression of the crime of Slave Trade, have named as their Plenipotentiaries for this purpose (to wit,)

His Majesty The King of the United Kingdom of Great Britain and Ireland the Right honourable Granville Viscount Granville, Peer of the United Kingdom, Knight Grand Cross of the Most honourable Order of the Bath, Member of the Privy Council of His Britannic Majesty, and His Ambassador Extraordinary and Plenipotentiary to the Court of France; and his Majesty the King of the French, Monsieur Charles Leonce Achille Victor, Duc de Broglie, Peer of France, Knight of the Royal Order of the Legion of Honour, Minister and Secretary of State for the Department of Foreign Affairs; who, after having exchanged their powers, which have been found in good and due form, have agreed on the following Articles:

ARTICLE I.—Whenever a Merchant Vessel navigating under the Flag of one of the two Nations, shall have been detained by the Cruizers of the other, duly authorized to that effect, conformably to the provisions of the Convention of the Thirtieth November One thousand eight hundred and Thirty-one, such Merchant Vessel, as also her master, her crew, her cargo, and the slaves who may be on board, shall be carried to such places as shall have been appointed by the Contracting Parties respectively, in order that proceedings may be there instituted respecting them, agreeably to the laws of each country, and they shall be delivered over to the authorities appointed for that purpose by the respective Governments.

When the Commander of the Cruizer shall not think proper to take upon himself the carrying in and delivering up the detained Vessel, he shall not entrust that duty to an Officer below the rank of Lieutenant in the Navy.

ARTICLE II.—The Cruizers of the two Nations authorized to exercise the right of visit and detention in execution of the Convention of the Thirtieth November One thousand eight hundred and Thirty-one, shall, in all that relates to the formalities of the visit and of the detention, as well as to the measures to be taken for delivering up Vessels suspected of being engaged in the Slave Trade to the respective jurisdictions, conform strictly to the instructions annexed to the present Convention, and which shall be considered as an integral part thereof.

The two High Contracting Parties reserve to themselves the power of making in these Instructions, by common consent, any modifications which circumstances might render necessary.

ARTICLE III.—It is clearly understood, that if the Commander of a Cruizer of one of the two Nations should have reason to suspect that a Merchant Vessel navigating under convoy of or in company with a Vessel of War of the other Nation has engaged in the Slave Trade, or has been fitted out for the said Trade, he is to make known his suspicions to the Commander of the Convoy or Vessel of War, who shall proceed alone to visit the suspected Vessel; and in case the latter Commander should find that the suspicion is well founded, he shall cause the Vessel to be taken, together with her master, her crew, and the cargo, and the slaves who may be on board, into a Port of his own nation, in order that proceedings may be instituted with regard to them, agreeably to the respective laws.

ARTICLE IV.—As soon as any Merchant Vessel detained and sent before the Tribunals aforesaid, shall arrive at one of the Ports respectively pointed out, the Commander of the Cruizer which shall have detained her, or the Officer appointed to bring her in, shall deliver to the authorities appointed for that purpose, one copy, signed by him, of all the lists, declarations and other documents specified in the Instructions annexed to the present Convention, and the said authorities shall, in consequence, proceed to a survey of the detained Vessel and her Cargo, and to an inspection of her crew, and of the slaves who may be on board, after having previously given notice of the time of such survey and inspection to the Commander of the Cruizer, or to the Officer who shall have brought in the Vessel, in order that he, or some person in his behalf, may be present thereat.

A Declaration (Procès verbal) of these Proceedings shall be drawn up in duplicate, signed by the persons who shall have acted therein, or been present at the same, and one of the said Declarations shall be delivered to the Commander of the Cruizer, or to the Officer who shall have been appointed to bring in the detained Vessel.

ARTICLE V.—The Vessels detained as before mentioned, their masters, crews and cargoes, shall be forthwith proceeded against before the proper Tribunals in the respective Countries according to the established forms; and if, in consequence of such proceedings, the said Vessels shall be found

found to have been employed in the Slave Trade, or to have been fitted out for the purposes thereof, the master, the crew and the accomplices, as well as the Ship and cargo, shall be dealt with conformably to the respective laws of the two countries.

In case the said Vessels shall be confiscated, a portion of proceeds arising from their sale shall be paid into the hands of the Government to which the Captor belongs, to be distributed among the officers and crew of the capturing Ship; this portion shall be sixty-five per centum of the net produce of the sale, as long as such a distribution of the proceeds is consistent with the respective laws of the two countries.

ARTICLE VI.—Any Merchant Vessel of either of the two Nations visited and detained in pursuance of the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one, and of the provisions hereinbefore recited, shall, unless proof be given to the contrary, be held and taken of right to have engaged in the Slave Trade, or to have been fitted out for the purposes of such traffic, if any of the particulars hereinafter specified shall be found in her outfit or equipment, or on board of her; videlicet,

1°. Having her hatches fitted with open gratings, instead of being close hatches, as usual in Merchant Vessels.

2°. Having more divisions or bulk-heads in the hold or on deck than necessary for Trading Vessels.

3°. Having on board spare planks, either actually fitted in that shape, or fit for readily laying a second or moveable deck or slave-deck.

4°. Having on board shackles, bolts or handcuffs.

5°. Having on board a supply of water more than sufficient for the consumption of her crew as a Merchant Vessel.

6°. Having on board an unreasonable number of water-casks, or other vessels for holding water, unless the master shall produce a certificate from the Custom House from the place at which he cleared outwards, stating that a sufficient security had been given by the owners of such Vessel that such casks or other vessels should only be used for the reception of palm oil, or be employed in any other lawful trade.

7°. Having on board a greater quantity of mess-tubs or kids than requisite for the use of her crew as a Merchant Vessel.

 8°. Having

8°. Having on board two or more copper boilers, or even one evidently larger than requisite for the use of her crew as a Merchant Vessel.

9°. Having on board a quantity of rice, or farinha, flour of the manioc of Brazil, or cassada, or maize, or Indian corn, beyond any probable requisite provision for the use of her crew, and such rice, flour, maize or Indian corn, not being entered on the Manifest as part of the cargo for trade.

ARTICLE VII.—No compensation shall in any case be granted either to the master or to the owner, or to any other person interested in the equipment or lading of a Merchant Vessel in which any of the particulars specified in the preceding Article shall be found, even if the Tribunals should not pronounce any condemnation in consequence of her detention.

ARTICLE VIII.—When a Merchant Vessel of either of the two Nations shall have been visited and detained illegally, or without sufficient cause of suspicion, or when the visit and detention shall have been attended with any abuse or vexatious acts, the Commander of the Cruizer, or the Officer who shall have boarded the said Vessel, or the Officer who shall have been appointed to bring her in, as the case may be, shall be liable to costs and damages to the master and to the owners of the Vessel and cargo.

These costs and damages may be awarded by the Tribunal before which the proceedings against the detained Vessel, her master, crew and cargo, shall have been instituted; and the Government of the country to which the Officer who gave occasion for such award shall belong, shall pay the amount of the said costs and damages within the period of one year from the date of the award.

ARTICLE IX.—If in the visit or detention of a Merchant Vessel, made in virtue of the provisions of the Convention of the Thirtieth November One thousand eight hundred and Thirty-one, or of the present Convention, any abuse or vexation shall have been committed, but the Vessel shall not have been delivered over to the jurisdiction of her own Nation, the master of the Vessel shall make a declaration on oath of the abuses or vexations of which he has to complain, and of the costs and damages to which he lays claim, before the competent authorities in the first Port of his own country at which he may arrive, or before the Consular Agent of his nation, if the Vessel proceeds to a foreign Port where

where there is such an Agent. This Declaration shall be confirmed by an examination under oath of the principal persons of the crew or passengers who have witnessed the visit or detention, and one formal Declaration (Procès verbal) of the whole shall be drawn up, and two copies thereof delivered to the master, who shall forward one of them to his own Government in support of his claim for costs and damages. It is understood, that if any compulsory circumstances should prevent the master from making his Declaration, it may be made by the owner, or by any other person interested in the Vessel or in her cargo.

On the official transmission of one copy of the former Declaration (Procès verbal) above-mentioned, through the channel of the respective Embassies, the Government of the country to which the Officer charged with abuses or vexations shall belong, shall forthwith institute an inquiry into the matter; and if the validity of the complaint be admitted, the said Government shall cause to be paid to the master or owner, or to any other person interested in the Vessel which has been molested, or in her cargo, the amount of costs and damages which may be due to them.

Article X.—The two Governments engage reciprocally to communicate each to the other, free of expense, and upon application being made, copies of all the proceedings instituted, and judgments given, relative to Vessels visited or detained in execution of the provisions of the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one, and of the present Convention.

Article XI.—The two Governments agree to ensure the immediate freedom of all slaves who shall be found on board Vessels visited and detained in virtue of the stipulations of the principal Convention hereinbefore referred to, or of the present Convention, whenever the offence of trafficking in slaves shall have been established by the sentence of the respective Tribunals. They reserve to themselves, however, for the welfare of the slaves themselves, the right to employ them as servants or free labourers, conformably to their respective laws.

Article XII.—It is hereby agreed between the two High Contracting Parties, that in all cases in which a Vessel, under the Convention of the Thirtieth of November One thousand eight hundred and Thirty-one, or under this Supplementary Convention, shall be detained by their respective Cruizers as having been engaged in the Slave Trade, or

fitted out for the purposes thereof, and shall be placed at the disposal of either Government for the purpose of being sold, in consequence of a sentence of confiscation pronounced by a competent tribunal, the said Vessel shall be broken up, in whole or in part, before the sale, whenever its peculiar construction or outfit shall give reason to fear that it may be again employed in the Slave Trade, or any other illicit traffic.

ARTICLE XIII.—The present Convention shall be ratified, and the Ratifications shall be exchanged at Paris, within the space of one month, or sooner, if possible.

In witness whereof, the above-named Plenipotentiaries have signed in duplicate the present Convention, and have affixed thereunto the Seals of their Arms.

Done at Paris, the Twenty-second of March One thousand eight hundred and Thirty-three.

(signed) GRANVILLE. (L. S.)
V. BROGLIE. (L. S.)

INSTRUCTIONS TO CRUIZERS.

1°. Whenever a Merchant Vessel of either of the two Nations shall be visited by a Cruizer of the other, the Officer commanding the Cruizer shall exhibit to the master of such Vessel the special orders which confer upon him the exceptional right of visit, and shall deliver to him a certificate, signed by him, specifying his rank in the Navy of his country, with the name of the Ship which he commands, and declaring that the only object of such visit is to ascertain whether the Vessel is engaged in the Slave Trade, or is fitted out for the purposes of such traffic. When the visit is made by another officer of the Cruizer than her Commander, this officer shall not be under the rank of Lieutenant in the Navy; and in this case such officer shall exhibit to the master of the Merchant Vessel a copy of the special orders above mentioned, signed by the Commander of the Cruizer, and shall likewise deliver to him a certificate, signed by him, specifying the rank which he holds in the Navy, the name of the Commander under whose orders he is acting, and of the Cruizer to which he belongs, and the object of his visit, as hereinbefore recited. If it shall be ascertained by the visit, that the Ship's papers are regular, and her proceedings lawful, the Officer shall certify upon the Log Book of the vessel, that

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that the visit took place only in virtue of the special orders above mentioned, and the Vessel shall be permitted to continue her course.

2°. If, in consequence of the visit, the Officer commanding the Cruizer shall be of opinion that there are sufficient grounds for believing that the Vessel is engaged in the Slave Trade, or has been fitted out for that traffic, and if he shall, in consequence, determine to detain her, and to have her delivered up to the respective jurisdiction, he shall forthwith cause a list to be made out in duplicate of all the papers found on board, and he shall sign this list and the duplicate, adding to his name his rank in the Navy, and the name of the Vessel under his command; he shall in like manner make out and sign in duplicate a declaration, stating the place and time of the detention, the name of the Vessel, that of her master, and those of the persons composing her crew, and also the number and condition of the slaves found on board: this declaration shall further contain an exact description of the state of the Vessel and her cargo.

3°. The Commander of the Cruizer shall without delay carry or send the detained Vessel, with her master, crew, cargo and the slaves found on board, to one of the Ports hereinafter specified, in order that proceedings may be instituted in regard to them, conformably to the respective laws of each country, and he shall deliver the same to the competent authorities, or to the persons who shall have been specially appointed for that purpose by the respective Governments.

4°. No person whatever shall be taken out of the detained Vessel, nor shall any part of her cargo, nor of the slaves found on board, be removed from her until after such Vessel shall have been delivered over to the authorities of her own Nation, excepting only when the removal of the whole or of part of the crew, or of the slaves found on board, shall be deemed necessary, either for the preservation of their lives, or from any other consideration of humanity, or for the safety of the persons who shall be charged with the navigation of the Vessel after her detention; in this case, the Commander of the Cruizer, or the Officer appointed to bring in the detained Vessel, shall make a declaration of such removal, in which he shall specify the reasons for the same,

same, and the masters, sailors, passengers or slaves so removed shall be carried to the same port as the Vessel and her cargo, and they shall be received in the same manner as the Vessel, agreeably to the regulations hereinafter set forth.

5°. All such French Vessels as shall be detained by the Cruizers of His Britannic Majesty on the African Station, shall be carried and delivered up to the French Jurisdiction at Goree.

All such French Vessels as shall be detained by the British Squadron on the West India Station, shall be carried and delivered up to the French Jurisdiction at Martinique.

All such French Vessels as shall be detained by the British Squadron on the Madagascar Station, shall be carried and delivered up to the French Jurisdiction at the Isle of Bourbon.

All such French Vessels as shall be delivered up by the British Squadron on the Brazilian Station, shall be carried and delivered up to the French Jurisdiction at Cayenne.

All such British Vessels as shall be detained by the cruizers of his Majesty the King of the French on the African Station, shall be carried and delivered up to the Jurisdiction of His Britannic Majesty at Bathurst, on the River Gambia.

All such British Vessels as shall be detained by the French Squadron on the West India Station, shall be carried and delivered up to the British Jurisdiction at Port Royal in Jamaica.

All such British Vessels as shall be detained by the French Squadron on the Madagascar Station, shall be carried and delivered up to the British Jurisdiction at the Cape of Good Hope.

All such British Vessels as shall be detained by the French squadron on the Brazilian Station, shall be carried and delivered up to the British Jurisdiction at the colony of Demerara.

6°. As soon as a Merchant Vessel which shall have been detained as aforesaid, shall arrive at one of the ports or places above mentioned, the Commander of the Cruizer, or the Officer appointed to bring in the detained Vessel, shall forthwith deliver to the authorities duly appointed for that purpose by the respective Governments the Vessel and her cargo, together with the

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the master, crew, passengers and slaves found on board, as also the papers which shall have been seized on board the Vessel, and one of the lists made out in duplicate of the said papers, the other remaining in his possession; such officer shall, at the same time, deliver to the said authorities one of the declarations made out in duplicate, as hereinbefore specified, adding thereto a statement of any changes which may have taken place from the time of detention to that of the delivery, as well as a copy of the declaration of any removals which may have taken place, as above provided for. In delivering over these several documents, the Officer will make attestation of their truth on oath, and in writing.

7°. If the Commander of a Cruizer of either of the High Contracting Parties, who shall be duly furnished with the aforesaid special Instructions, shall have reason to suspect that a Merchant Vessel sailing under convoy or in company with a Ship of War of the other party, is engaged in the Slave Trade, or has been fitted out for the purpose of that traffic, he shall confine himself to the communicating his suspicions to the Commander of the Convoy or of the Ship of War, and he shall leave it to the latter to proceed alone to a visit of the suspected Vessel, and to deliver her up, if the case require it, to the jurisdiction of her own country.

8°. The Cruizers of the two Nations shall conform strictly to the tenor of these Instructions, which are to be considered as a development of the clauses of the principal Convention of the Thirtieth day of November One thousand eight hundred and Thirty-one, as well as of the Convention to which they are annexed.

The undersigned Plenipotentiaries have agreed, in conformity with the Second Article of the Convention, signed by them on this day, the Twenty-second day of March One thousand eight hundred and Thirty-three, that the preceding Instructions shall be annexed to the said Convention, and considered as an integral part thereof.

Paris, the Twenty-second day of March One thousand Eight hundred and Thirty-three.

(signed) GRANVILLE. (L.S.)
V. BROGLIE. (L.S.)

ARTICLE II.—It is agreed with reference to Article Three of the Convention of the Thirtieth day of November One thousand eight hundred and Thirty-one, herein above transcribed, that his Majesty the King of Sardinia shall fix, according to his convenience, the number of Sardinian Cruizers which shall be employed on the service mentioned in the said Article, and the stations on which they shall cruize.

ARTICLE III.—The Government of his Majesty the King of Sardinia shall make known to the Governments of Great Britain and of France, conformably to Article Four of the Convention of the Thirtieth day of November One thousand eight hundred and Thirty-one, the Sardinian Ships of War which are to be employed in the suppression of the Trade, in order that the necessary warrants for their Commanders may be delivered; the warrants which are to be delivered by Sardinia, shall be issued after notification of the number of British and French Cruizers intended to be employed shall have been made to the Sardinian Government.

ARTICLE IV.—It is agreed, with reference to the Fifth Article of the Instructions annexed to the Supplementary Convention of March the Twenty-second One thousand eight hundred and Thirty-three, that all SardinianVessels, or Vessels bearing the Sardinian Flag, which may be detained in execution of the Conventions herein above transcribed, by the Cruizers of His Majesty the King of the United Kingdom of Great Britain and Ireland, or of his Majesty the King of the French, employed on the Stations of America, of Africa, and of Madagascar, shall be carried in and delivered at the Port of Genoa.

ARTICLE V.—The present Treaty shall be ratified, and the ratifications shall be exchanged at Turin, in the space of three months, or sooner, if possible.

Done at Turin, the Eighth of August One thousand eight hundred and Thirty-four.

(signed). AUG. J. FOSTER (L. S.)
BARANTE (L. S.)
DE LA TOUR (L. S.)

ADDITIONAL ARTICLE.

Whereas by the Fourth Article of the Treaty signed at Turin, on the Eighth day of August One thousand eight hundred and Thirty-four, whereby the King of Sardinia accedes to the two Conventions concluded between their Majesties

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Majesties the King of the United Kingdom of Great Britain and Ireland and the King of the French, on the Thirtieth day of November One thousand eight hundred and Thirty-one, and on the Twenty-second day of March One thousand eight hundred and Thirty-three, it is stipulated, that all Vessels under the Flag of Sardinia, which in pursuance of the before-mentioned Treaty and Convention may be detained by the Cruizers either of His Majesty the King of the United Kingdom of Great Britain and Ireland, or of his Majesty the King of the French, stationed on the Coasts of America, Africa or Madagascar, shall be carried or sent to Genoa: And whereas the landing of Negroes from such Ships at Genoa may be productive of great inconvenience, the undersigned Plenipotentiaries of the Three Powers, parties to the aforesaid Treaty of accession, being hereunto authorized and instructed by their respective Sovereigns, have agreed to the following additional Article to the before-mentioned Treaty:

ARTICLE.—Negroes who shall be found on board Vessels under the Flag of Sardinia which may be so detained, and which, according to the stipulations of the said Treaty, are to be sent to Genoa, shall be landed at some Port nearer than Genoa to the place where such Slave Vessels may be found; (that is to say)

1°. That if such Sardinian Vessel shall be detained by an English Cruizer, the Negroes found on board such Vessel shall be landed at that port or place to which an English Slave Vessel found and detained under similar circumstances, and at the same place, by a French Cruizer, would under the aforesaid Conventions with France be sent or taken.

2°. If such Sardinian Vessel shall be detained by a French Cruizer, the Negroes found on board such Vessel shall be landed at that port or place to which a French Slave Vessel, found and detained under similar circumstances, and at the same place, by an English Cruizer, would, under the aforesaid Conventions with France, be sent or taken.

3°. If such Sardinian Vessel shall be detained by a Sardinian Cruizer, the Negroes found on board shall be landed at the nearest of those ports or places, English or French, to which, under the aforesaid Conventions with France, the Vessel having such Slaves on board would have been taken or sent, if such Vessel had been

either English or French, instead of being Sardinian, and if she had been detained by an English or by a French Cruizer.

The present additional Article shall have the same force and effect as if it had been inserted word for word in the before-mentioned Treaty of Accession, signed at Turin, on the Eighth day of August last.

It shall be ratified by each of the High Contracting Parties, and the Ratifications shall be exchanged at Turin within the space of six months.

Done at Turin this Eighth day of December One thousand Eight hundred and Thirty-four.

(signed) HENRY EDWARD FOX. (L. S.)
BARANTE. (L. S.)
DE LA TOUR. (L. S.)

And whereas the said Treaty and the said additional Article were ratified by and between His Majesty the King of the United Kingdom of Great Britain and Ireland, his Majesty the King of the French, and his Majesty the King of Sardinia respectively, and such ratifications were exchanged, videlicit, of the Treaty on the Eighth day of December in the year of our Lord One thousand eight hundred and Thirty-four, and of the said additional Article on the Thirty-first day of January One thousand eight hundred and thirty-five:

And whereas it is expedient and necessary that effectual provision should be made for carrying into execution the provisions of the said Treaty, and of the said additional Article; **BE it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for any Officer commanding any Ship of War of His Majesty, or of the King of Sardinia, who shall have such rank as by the Second Article of the said Convention of the Thirtieth day of November One thousand eight hundred and Thirty-one is agreed, and who shall be duly instructed and authorized, and furnished according to the several provisions of the said two Conventions, and within the Waters described, and according to the provisions and exceptions contained in the First Article of the said Convention of the Thirtieth day of November One thousand eight hundred and Thirty-one, to exercise the right of visiting and searching any Merchant Vessel of either of the said two Nations of Great Britain and Sardinia liable to suspicion, and suspected of having engaged in, or of having been employed in the Slave Trade, or of having been fitted out for the purposes of such Traffic, according

1. Any Officer in His Majesty's Service empowered to search Vessels suspected of being engaged in Slave Trade.

to

to the several provisions and instructions of the said two Conventions, except as in the said Third Article of the said Supplementary Convention is excepted; and it shall further be lawful for such Officer under such circumstances, and upon sufficient grounds, to exercise the right of detaining and of sending, or of carrying in and delivering over such Vessel, together with its Master, Sailors, Passengers, Slaves and Cargo, to the authorities appointed by the respective Governments of Great Britain, France and Sardinia, for the purposes of the said Treaty of the Eighth day of August One thousand eight hundred and Thirty-four, and the additional Article thereto by the respective Governments of Great Britain, France and Sardinia, and to one of the jurisdictions in the said instructions mentioned, as the same are altered and modified by the said Treaty, in order that proceedings may be instituted conformably to the respective laws of the said two Countries of Great Britain and Sardinia; and all such Commanders of His Majesty's Ships are hereby authorized and required, in the exercise of such right of visiting, searching, detaining, sending, carrying in and delivering as aforesaid, to execute and comply with the said several provisions and instructions of the said two Conventions as apply thereto respectively, and as the same are altered and modified by the said Treaty of the Eighth day of August One thousand eight hundred and Thirty-four, and the additional Article thereto.

2. Any Proceedings instituted against Crew, &c. of captured Merchant Vessel, to be conducted in name of the King of Great Britain and Ireland.

And be it further Enacted, That where any such officer of His Majesty the King of the United Kingdom of Great Britain and Ireland, or of his Majesty the King of Sardinia, shall send, carry or deliver over as aforesaid, any such Merchant Vessel, wholly or in part owned by any subject or subjects of His Majesty the King of the United Kingdom of Great Britain and Ireland, or of his Majesty the King of Sardinia respectively, all and every proceedings instituted in the Tribunals hereinafter mentioned, in regard to such Merchant Vessel, and its Crew, Cargo and Slaves, and in respect to the cause, shall be conducted in the name of His said Majesty the King of the United Kingdom of Great Britain and Ireland, by some Person duly thereunto authorized; (that is to say) all Ships, Cargoes and Slaves which shall be so detained by the Cruizers of His Majesty the King of the United Kingdom of Great Britain and Ireland, or of his Majesty the King of Sardinia, and delivered up to the jurisdiction of His Majesty at Bathurst, on the River Gambia, shall be proceeded against and adjudicated in the Vice-Admiralty Court of Sierra Leone; and all other Ships, Cargoes and Slaves, which may in like manner be detained by the Cruizers of His Majesty the King of the United Kingdom of Great Britain and Ireland, or of his Majesty the King of Sardinia, and delivered up to the jurisdiction of His Majesty, either at Jamaica, the Cape of Good Hope

or Demerara, shall be proceeded against and adjudicated in the Vice-Admiralty Court established in the said Colonies respectively; and the Judges and other Officers of the said Vice-Admiralty Courts respectively are hereby authorized to take cognizance thereof accordingly.

3. Any of the Particulars specified in Sixth Article found on board captured Vessel, said Vessel to be deemed to have engaged in Slave Trade.

And be it further Enacted and Declared, That if any of the particulars specified in the Sixth Article of the said Convention of the Twenty-second day of March One thousand eight hundred and Thirty-three, shall be found in the outfit, or equipment of, or on board of any such Merchant Vessel, wholly or in part owned as last aforesaid, and visited and detained in pursuance of the said Treaty, such Vessel shall, unless proof be given to the contrary, be held and taken to have engaged in the Slave Trade, or to have been fitted out for the purpose of such Traffic, and to be equipped and employed for the purposes declared unlawful by an Act of Parliament passed in the fifth year of the reign of His Majesty King GEORGE the Fourth, intituled, "An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade."

4. A portion of the Proceeds arising from Sale of Slave Vessel captured by a Sardinian Officer, to be paid to the King of Sardinia.

And be it further Enacted, That in case any such Merchant Vessel, wholly or in part owned as aforesaid, shall be brought in by any officer of his Majesty the King of Sardinia, duly authorized, and shall be confiscated according to the laws of this country, and the provisions of the said two Conventions (as the same are altered and modified by the said Treaty), and of the said Act of Parliament passed in the fifth year of the reign of his Majesty King GEORGE the Fourth, it shall be lawful for His Majesty the King of the United Kingdom of Great Britain and Ireland to direct that a portion of the proceeds arising from the sale thereof shall be paid into the hands of the Government of his Majesty the King of Sardinia, according to the provisions of the Fifth Article of the said Convention of the Twenty-second day of March One thousand eight hundred and Thirty-three; and any portion of the proceeds arising from the sale of any Ship agreed to be paid into the hands of the Government of His Majesty the King of the United Kingdom of Great Britain and Ireland, according to the provisions of the said Fifth Article, or Cargo, shall be paid to such Person or Persons as the Commissioners of His Majesty's Treasury may direct or appoint to receive the same, to and for the use of the Captors, according to the provisions of the said Fifth Article; and the same, after deducting all necessary expenses, shall be distributed to and amongst the Officers and Crew of the capturing Ship, in the manner hereinafter directed for the distribution of Bounties on Slaves taken on board the said Vessel.

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5. Bounty of Five Pounds to be paid to Commanders and Crews for every Slave found on board condemned Vessel.

And be it further Enacted, That there shall be paid out of the Consolidated Fund of United Kingdom of Great Britain and Ireland, to the Commanders, Officers, and Crews of His Majesty's Ships authorized to make seizures under the said Treaty of the Eighth day of August One thousand eight hundred and Thirty-four, a Bounty of *Five* Pounds of lawful money of Great Britain, for every Slave, whether man, woman or child, seized and found on board a British or Sardinian Ship or Vessel taken, delivered over, and condemned in pursuance of the Provisions the said Treaty, and of this Act; such Bounty to be issued and paid by order from the said Commissioners of His Majesty's Treasury, and to be distributed to and amongst the Captors aforesaid, in such manner and proportion as His Majesty, His heirs, and successors shall think fit to order and direct by any Order in Council, or by any Proclamation to be made for that purpose.

6. Bounty to be paid on production of Certificate signed by Officers appointed to receive Slaves.

Provided always, and be it further Enacted, That in order to entitle the Captors to receive the said Bounty Money, the number of men, women and children so taken, delivered over and condemned, shall be proved to the Commissioners of His Majesty's Treasury, by producing a Copy duly certified of the sentence or decree of condemnation, and also a Certificate under the hand of the proper Officer or Officers, military or civil, who may be appointed to receive such Slaves.

7. Where Slaves seized without condemnation, Lords of Treasury empowered to grant a Moiety of Bounty.

And be it further Enacted, That where any Slaves, or Persons treated, dealt with, carried, kept or detained as Slaves, shall be taken or seized on board any British or Sardinian Ship or Vessel, in pursuance of the Provisions of the said Treaty and of this Act, but shall not have been condemned, or shall not have been delivered over in consequence of death, sickness or other inevitable circumstance, it shall and may be lawful for the said Commissioners of His Majesty's Treasury, if to their discretion it shall seem meet, by warrant signed by any *Three* or more of them, to direct the payment out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland of one *Moiety* of the Bounty which would have been due in each case respectively, if the said Slaves had been delivered over and condemned.

8. Persons claiming benefit of Bounty, may resort to High Court of Admiralty for Judgment thereon.

Provided also, and be it further Enacted, That any Party or Parties claiming any benefit by way of Bounty under the Provisions of this Act, or any share of the proceeds of any Sardinian Vessel confiscated in pursuance of the provisions of the aforesaid Treaty, shall and may resort to the High Court of Admiralty, for the purpose of obtaining the judgment of the said Court in that behalf, and it shall and may be lawful for the Judge of the said High Court of

Admiralty to determine thereon, and also to hear and determine any question of joint capture which may arise on any seizure made in pursuance of this Act, and to enforce any Decrees or Sentences of the said Vice-Admiralty Courts relating to any such seizure.

9. Regulations pertaining to the distribution of Prize Money.

And be it further Enacted, That all the Provisions, Rules, Regulations, Forfeitures and Penalties respecting the delivery, by Prize Agents of Accounts for examination, and the distribution of Prize Money, and the accounting for and paying over the proceeds of Prize, and the per centage due thereon, to Greenwich Hospital, shall be, and are extended to, all Bounties and Proceeds to be distributed under the provisions of this Act, to the Officers and Crews of any of His Majesty's Ships or Vessels of War.

10. Where Damages sustained by illegal detention of Vessel, Lords of Treasury to make Compensation.

And be it further Enacted, That where any illegal visit and detention, or any visit or detention without sufficient cause of suspicion, or any abuse or vexation, shall have taken place and shall have been made, by any Officer of His Majesty the King of Great Britain and Ireland, as is mentioned in the Eighth and Ninth Articles of the said Convention of the Twenty-second day of March One thousand eight hundred and Thirty-three, it shall be lawful for the Commissioners of His Majesty's Treasury, by warrant signed by any *Three* or more of them, to direct payment to be made out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland of any costs and damages which may be duly awarded according to the provisions of the said two last-mentioned Articles: Provided always, That nothing herein contained shall exempt such Officer from his liability to make good the payments so made when lawfully called upon so to do by order of the said Commissioners of His Majesty's Treasury.

11. Where Judgment given against Seizor, Lords of Treasury to defray Expenses by him incurred.

And be it further Enacted, That when any Seizure shall be made by any of the Commanders, Officers and Crews of His Majesty's Ships authorized to make Seizures under the aforesaid Treaty, and when judgment shall be given against the Seizor, or when such Seizure shall be relinquished by him, it shall be lawful for the said Commissioners of His Majesty's Treasury, if to their discretion it shall seem meet, by warrant signed by any *Three* or more of them, to direct payment to be made out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, of such costs and expenses as the Seizor may have incurred in respect of such Seizure, or any proportionate part thereof.

12. Defendant may plead General Issue, and give this Act in Evidence.

And be it further Enacted, That if any action or suit shall be commenced either in Great Britain or elsewhere, against any Person or Persons for any thing done in pursuance of the said Treaty, or in pursuance

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pursuance of this Act, in as far as it relates to the said Treaty, the Defendant or Defendants in such action or suit may plead the General Issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and may plead that the same was done in pursuance and by the authority of the said Treaty, or of this Act; and if it shall appear so to have been done, the Jury shall find for the Defendant or Defendants; and if the Plaintiff shall be nonsuited, or shall discontinue his action, after the Defendant or Defendants shall have appeared, or if judgment shall be given upon any verdict or demurrer against the Plaintiff, the Defendant or Defendants shall recover *Treble* Costs, and shall have the like remedy for the same as defendants have in other cases by law.

6 WILL. IV.—Sess. 1835.

A

B I L L

For carrying into effect a Treaty with The King of The French and The King of Sardinia, for suppressing the Slave Trade.

(Prepared and brought in by Lord Viscount Palmerston and Mr. Baring.)

Ordered, by The House of Commons, *to be Printed,* 21 *August* 1835.

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1 *July* 1835.

A

B I L L

To consolidate certain Offices in the Collection of the Revenues of Stamps and Taxes, and to amend the Law relating thereto.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS under and by virtue of an Act passed in the last Session of Parliament, intituled, "An Act to amend the Laws relating to the Land and Assessed Taxes, and to consolidate the Boards of Stamps and Taxes," the several duties, matters and things theretofore under the care and management of the Commissioners of Stamps and of the Commissioners for the Affairs of Taxes respectively, were placed under the care and management of one consolidated Board of Commissioners, called "The Commissioners of Stamps and Taxes:" Preamble: 4 & 5 W. 4, c. 60.

And whereas the several Offices of Receiver General of Stamp Duties in England, and Receiver General of Land and Assessed Taxes for the London District, are now, by virtue of His Majesty's Letters Patent, vested in one Person, and it is expedient that the said two several Offices should be consolidated into one Office, and that the duties thereof should be regulated in the manner hereinafter mentioned;

1. Offices of Receiver General of Stamp Duties and Receiver General of Land and Assessed Taxes consolidated into one office.

Be it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *commencement of this Act*, the said two several Offices of Receiver General of Stamp Duties in England and Receiver General of Land and Assessed Taxes for the London District, shall be and the same are hereby consolidated into

one Office; and such consolidated Office shall, without any other authority than this Act, vest in the Person in whom at the time of the commencement of this Act the said two several Offices shall or may be vested; and such Person, as well as every other Person who shall be at any time hereafter appointed to the said consolidated Office, shall be termed "The Receiver General of Stamps and Taxes."

2. Offices of Accountant and Comptroller General of Stamp Duties, and Comptroller of Land and Assessed Taxes, consolidated into one Office.

AND whereas it is expedient that the two several Offices of Accountant and Comptroller General of Stamp Duties and Comptroller of Accounts of Land and Assessed Taxes in England, should also be consolidated into one Office; BE it Enacted, That from and after the commencement of this Act, the said two last-mentioned Offices shall be and the same are hereby consolidated into one Office; and such consolidated Office shall, without any further or other authority than this Act, vest in the Person in whom at the time of the commencement of this Act the said Office of Accountant and Comptroller General of Stamp Duties shall or may be vested; and such Person, as well as every other Person who shall be at any time hereafter appointed to the said last-mentioned consolidated Office, shall be termed "The Accountant and Comptroller General of Stamps and Taxes."

3. Persons appointed respectively Receiver General of Stamps and Taxes and Accountant and Comptroller General of Stamps and Taxes, to hold their respective Offices during pleasure only.

And be it Enacted, That the Persons in whom respectively the said Offices of Receiver General of Stamps and Taxes and Accountant and Comptroller General of Stamps and Taxes, are by this Act severally vested, shall hold their said respective Offices during the pleasure of His Majesty, His heirs and successors, and no longer; and when and so soon as the said several Offices shall respectively become vacant, and from time to time afterwards, whenever any vacancy shall occur in either of such Offices, it shall be lawful for the Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them, to nominate and appoint a fit and proper Person to fill such vacant Office; and every such Person so to be appointed as last mentioned, shall hold his said Office during the pleasure of the said Commissioners of His Majesty's Treasury for the time being, and no longer.

4. Powers and authorities given by former Acts to vest in the Receiver General of Stamps and Taxes and the Accountant and Comptroller General of Stamps and Taxes respectively.

And be it Enacted, That the said Receiver General of Stamps and Taxes shall have use and exercise all such powers and authorities as are now given to or vested in the Receiver General of Stamp Duties in England, and the Receiver General of Land and Assessed Taxes for the London District respectively, under or by virtue of any Act or Acts in force at the time of the passing of this Act, or otherwise howsoever, and the said Accountant and Comptroller General of Stamps and Taxes shall have use and exercise all such powers and authorities as are now given to or vested in the Accountant and Comptroller General of Stamp Duties and the Comptroller of Accounts of Land and Assessed Taxes in England respectively, under or by virtue of any such

such Act or Acts as aforesaid, or otherwise howsoever; and all such powers and authorities shall be and are hereby given to and vested in the said Receiver General of Stamps and Taxes and the said Accountant and Comptroller General of Stamps and Taxes respectively, as fully and effectually to all intents and purposes as if such powers and authorities, and all clauses, regulations, provisions, penalties and forfeitures relating thereto respectively were severally repeated and re-enacted in this Act, and made part thereof.

5.
All Monies arising from Stamp Duties and from the Land and Assessed Taxes, to be paid or remitted to the Commissioners or the Receiver General of Stamps and Taxes.

And be it Enacted, That all Stamp Duties, and all Monies from time to time collected or received for the Land Tax, or payable for the sale and redemption thereof, and all the rates and duties of Assessed Taxes, and all compositions for Assessed Taxes, and all other duties and sums of Money whatsoever, now or at any time hereafter under the care or management of the Commissioners of Stamps and Taxes, and which shall be collected or received in any part of Great Britain, shall from time to time be paid or remitted by the several Distributors of Stamps and Receiving Inspectors of Taxes, and other Receivers of the said Duties and Monies respectively, or by the several Remitters thereof, to the said last-mentioned Commissioners, or to the said Receiver General of Stamps and Taxes, at such times, in such manner and under such rules and regulations as the said Commissioners of Stamps and Taxes shall from time to time direct or appoint; and the several Collectors of the Land and Assessed Taxes within the district or circuit called "The London Receipt," shall pay all the said Duties and sums of Money from time to time collected or received by them respectively to the said Receiver General of Stamps and Taxes at the Head Office for Stamps and Taxes, under and subject to such rules and regulations as may be from time to time directed or appointed by the said Commissioners of Stamps and Taxes in that behalf; and every such Collector is hereby strictly enjoined and required, under the penalty imposed on Collectors for neglect of duty by the several Acts in force, to attend at the said Head Office to make his payments to the said Receiver General of Stamps and Taxes: Provided always, That it shall be lawful for the Commissioners of His Majesty's Treasury, if they shall think fit, to annex any part or parts of the said District or Circuit of Receipt, called "The London Receipt," to any adjoining District or Districts of Receipt, as to the said last-mentioned Commissioners may appear to be necessary or expedient, and from thenceforth the Collector or Collectors of the part or parts so annexed to any adjoining district or districts as aforesaid, shall pay the Duties and sums of Money collected or received by him to the Receiving Inspector, or other Receiver for the time being appointed to such adjoining District or Districts.

Collector of the London District of Receipt to attend at the Head Office, to make their payments to the Receiver General.

Commissioners of the Treasury may annex any part of the London District of Receipt to any adjoining District.

6.
Monies, &c. received by the Receiver-General of

And be it Enacted, That all Monies, and all Drafts, Bills, Notes or other Orders or Securities for the payment of Money from time to time

Stamps and Taxes, to be paid by him into the Bank of England, to the credit of the Exchequer.

time received by the said Receiver General of Stamps and Taxes, for or on account of any of the Duties, Rates and Taxes aforesaid, or any of them, or otherwise, for the use of His Majesty (except only so much thereof as the said Receiver General shall be authorized by the Commissioners of Stamps and Taxes, under the sanction of the Commissioners of His Majesty's Treasury, to retain for the public service), shall be paid by the said Receiver General into the Bank of England, and shall be transferred to the credit of His Majesty's Exchequer in such manner, at such times, and under such rules and regulations, as the Commissioners of Stamps and Taxes, under the authority of the said Commissioners of His Majesty's Treasury, shall from time to time direct or appoint; any thing in any former Act or Acts to the contrary thereof in anywise notwithstanding.

7. Receiver General annually to render Accounts of Monies received to the Commissioners for auditing the Public Accounts.

And be it Enacted, That the said Receiver General of Stamps and Taxes shall keep Accounts of all Monies which shall have been received by him, arising from Stamp Duties and from the Land Tax, and the sale and redemption thereof, and also of all Monies which shall have been received by the said Receiver General, arising from the Duties of Assessed Taxes, or Compositions for Assessed Taxes, and of all other Monies whatsoever which the said Receiver General shall have received for the use of His Majesty, His heirs or successors; and the said Receiver General shall annually render such Accounts to the Commissioners for auditing the Public Accounts; and every such Account shall be made up to the *Fifth* day of *January* in every year, or to such other period in every year as the Commissioners of His Majesty's Treasury shall appoint, and every such Account shall be delivered to the said Commissioners for auditing the Public Accounts within such time as the Commissioners of the Treasury shall limit or appoint in that behalf.

8. Accountant and Comptroller General to pass an Account annually before the Commissioners for auditing the Public Accounts.

And be it Enacted, That the said Accountant and Comptroller General of Stamps and Taxes shall annually pass before the Commissioners for auditing the Public Accounts, a general Account of all the several Duties, Revenues and Monies which now are, or from time to time may be, under the care or management of the Commissioners of Stamps and Taxes; and every such General Account as aforesaid shall be made up to the *Fifth* day of *January* in every year, or to such other period in every year as the Commissioners of His Majesty's Treasury shall direct, and shall be delivered by the said Accountant and Comptroller General to the said Commissioners for auditing the Public Accounts within such time as shall be limited by the said Commissioners of His Majesty's Treasury for that purpose, and the first of such Accounts shall be rendered in the year *One thousand eight hundred and Thirty-six.*

9. Receiving Inspectors and other Re-

And be it Enacted, That from and after the commencement of this Act, the several Receiving Inspectors, or other Receivers of the Land and Assessed

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Assessed Taxes in any part of Great Britain shall severally render their respective Accounts to the Commissioners of Stamps and Taxes, under such orders, rules and regulations as the said Commissioners shall make and appoint in that behalf; and all such Accounts shall be examined, audited and comptrolled by the Accountant and Comptroller General of Stamps and Taxes, and shall be deposited and remain in the Head Office of the said Commissioners; and so much and such part and parts of any Act or Acts now in force as require the Accounts of the said Receiving Inspectors or other Receivers of the Land and Assessed Taxes in England to be rendered to the Auditor or Auditors of the Land Revenue, or the Commissioners for auditing the Public Accounts, or to be passed or made up for declaration in the Office of the said Auditor or Auditors, or of the said last-mentioned Commissioners, or to be declared before a Baron of His Majesty's Court of Exchequer, or to be transmitted to or enrolled in the Office of His Majesty's Remembrancer of the said Court, and also so much and such part and parts of any Act or Acts in force as require the Accounts of the said Receivers in Scotland to be taken and made up by the Auditor of the Court of Exchequer in Scotland, or to be sworn, allowed or declared before the said last-mentioned Court, or before the Chief or other Baron of the said Court, or to be examined, entered or enrolled in any of the Offices of the said Court, shall be and the same are hereby severally Repealed: Provided always, That the Accounts of the Receiver General of Stamps and Taxes shall be enrolled in the Office of His Majesty's Remembrancer of the Court of Exchequer in England, in like manner as the Accounts of the Receiver General of Stamp Duties have been hitherto enrolled in the said Office.

ceivers of Taxes to render their Accounts to the Commissioners of Stamps and Taxes.

So much of any Act as requires the Accounts of Receivers to be passed before the Auditors of the Land Revenue in England, or the Auditor of the Exchequer in Scotland, or to be declared or sworn before a Baron of the Exchequer, or to be inrolled in any of the Offices of the Exchequer in England or Scotland, repealed.

10.

And be it Enacted, That in any case in which by any Act or Acts now in force the Receiver General, Receiving Inspector or other Receiver of the Land or Assessed Taxes in England is directed or authorized to set in super or charge any county, division, parish, ward or place, or any Person or Persons for any sum or sums of Money in arrear or unpaid, it shall be lawful for the Commissioners of Stamps and Taxes, whenever they shall deem it expedient for the public service so to do, to transmit to His Majesty's Remembrancer of the Court of Exchequer a Certificate, signed by *Two* or more of the said Commissioners, containing the name or names of every or any such county, division, parish, ward or place, and of such Person or Persons as aforesaid, and the total amount of the sum or sums in arrear or unpaid, and with which such county, division, parish, ward or place, or such Person or Persons is or are chargeable, and specifying whether the same shall be due or owing in respect of the Land Tax, or of the Assessed Taxes; and where there shall be arrears of both the said Duties, distinguishing the amount due or owing in respect of each; and the said Remembrancer, upon the receipt of any such Certificate, shall cause the same

In cases where any County, &c., or Person may be returned in super for arrear of Land or Assessed Taxes, the Commissioners of Stamps and Taxes may transmit a Certificate thereof to the King's Remembrancer, which shall be inrolled in his Office, and be the ground for Process.

same to be enrolled in his Office, and such Inrolment shall be and be deemed a record in his Office as valid and effectual to authorize the issuing of any process or processes in the law against the county, division, parish, ward or place, and the Person or Persons so rendered chargeable, and to and for all other intents, constructions and purposes whatsoever, as if such county, division, parish, ward or place, or Person or Persons had been actually returned in super in any declared Account duly enrolled as of record in the Office of the said Remembrancer.

11. Bonds and Securities not to be invalidated or affected by this Act.

Provided always, and be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, to release, discharge, invalidate or affect any Bond or Security heretofore entered into or given to His Majesty or to the Commissioners of Stamps, or the Commissioners for the Affairs of Taxes, or the Commissioners of Stamps and Taxes, or to any Officer or Person in their respective employ, by any Person or Persons whatsoever either as principal or surety for securing the due accounting for or payment of any Duties or Monies under the care or management of any such Commissioners as aforesaid, or for the good conduct of any Officer, Clerk or other Person, or for any other purpose whatsoever relating to the said Duties or Monies, or any of them respectively; and that wheresoever, in any such Bond or Security as aforesaid, or in the condition thereof respectively, or in any Act or Acts now in force mention is made of the Receiver General of Stamp Duties, or of the Receiver General of Land and Assessed Taxes for the London District, the same with reference to any act, matter or thing to be done or performed after the commencement of this Act, shall be deemed and construed to apply to and to mean the Receiver General of Stamps and Taxes; and that wheresoever, in any such Bond or Security or condition as aforesaid, or in any Act or Acts now in force, mention is made of the Accountant and Comptroller General of Stamp Duties, or the Comptroller of Accounts of Land and Assessed Taxes, the same with reference to any such act, matter or thing as aforesaid shall be deemed and construed to apply to and to mean the Accountant and Comptroller General of Stamps and Taxes.

12. Recital of Act 43 G. 3, c. 99, s. 45.

AND whereas by an Act passed in the forty-third year of the reign of King GEORGE the Third, intituled, "An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the Management of the Commissioners for the Affairs of Taxes, and for amending the same," it is enacted, that the Commissioners of Taxes shall make out their Schedules containing the sums discharged from assessment for any cause specially allowed by law, and the sums with which each and every Defaulter ought to be charged, and the sums which shall not have been collected by occasion of the Collector's

Collector's neglect, and which ought to be re-assessed on the parish, ward or place, and shall cause the said several particulars to be inserted in a Schedule fairly written on parchment under the hands and seals of such Commissioners, or any Two or more of them, containing the names and surnames of the said Collectors, and the same to be delivered to the Receiver General, to be returned by such Receiver General into His Majesty's Court of Exchequer, whereupon every Person so making default of payment, and each parish, ward or place so in default may be charged by process of Court according to the course thereof in that behalf: AND whereas it is expedient that such Schedules as aforesaid should be deposited and remain with the said Commissioners of Stamps and Taxes at their Head Office; BE it therefore Enacted, That all such Schedules as aforesaid which shall be made out at any time after the commencement of this Act, shall be delivered over or transmitted by the Receiver General, Receiving Inspector, or other Receiver to whom the same shall have been delivered to the Commissioners of Stamps and Taxes, and shall be deposited and remain in the Head Office of the said last-mentioned Commissioners; and every such Schedule as aforesaid shall be conclusive Evidence against any Person so making default of payment, and against every parish, ward or place so in default of the sum or sums mentioned in any such Schedule being due and owing, and in arrear and unpaid to His Majesty, His heirs and successors, unless payment thereof shall be proved; and every such sum shall be recoverable from the Person and Persons making default of payment thereof as a debt upon record to The King's Majesty, His heirs and successors, with full costs of suit, and all charges attending the same.

Parchment Schedules of Defaulters to be deposited with the Commissioners of Stamps and Taxes.

13. Parchment Duplicates of Assessments not to be transmitted to the King's Remembrancer.

And be it Enacted, That so much and such part and parts of any Act or Acts in force as require the Commissioners for the Affairs of Taxes to transmit to The King's Remembrancer in England the Parchment Duplicates of Assessments of the Land Tax or Assessed Taxes, shall be and the same are hereby Repealed: Provided always, That such Duplicates shall continue to be furnished and transmitted to the Commissioners of Stamps and Taxes in the manner directed and required by the laws in force, and the same shall remain deposited in the Head Office of the said Commissioners.

14. Penalty on Persons unlawfully receiving Public Monies from Collectors of Taxes.

And be it Enacted, That if any Person, not being duly appointed for that purpose, or legally authorized in that behalf, shall knowingly or wilfully take or receive from any Collector of the Land Tax, or Collector of the Duties of Assessed Taxes, any sum or sums of Money arising from any of the said Taxes or Duties collected or received by such Collector, the Person so taking or receiving such sum or sums of Money shall forfeit *double* the amount of the sum or

sums so taken or received, to be recovered for the use of His Majesty, His heirs or successors, with full costs of suit in His Majesty's Court of Exchequer, and to be applied in the same manner as any other penalty so recovered may be applied under the authority of any of the Acts relating to the said Duties.

15. Recital of 43 G. 3, c. 99, s. 35.

AND whereas by an Act passed in the forty-third year of the reign of King GEORGE the Third, intituled, "An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the management of the Commissioners for the Affairs of Taxes, and for amending the same," where any Person shall quit his or her place of residence, and remove to any other parish or place, without first discharging or paying the Duties charged upon him or her, the Commissioners acting within the parish or place where such Duties are charged upon and unpaid by the Person removing as aforesaid, are directed to sign and cause to be transmitted a Certificate thereof to the Commissioners acting within the parish or place where the Person making such default or payment shall happen to reside, which Commissioners, or any Two or more of them, are thereby directed and empowered to raise and levy the said Duties charged upon the Party removed as aforesaid: AND whereas it frequently happens that no sufficient distress can be found within the district or division of the said last-mentioned Commissioners, whereby the said Duties may be levied, and it is expedient to provide a further remedy for the recovery of the said Duties in such cases; BE it therefore Enacted, That where, upon the transmission of any such Certificate as aforesaid, no sufficient distress can be found within the district or division of the Commissioners acting for the parish or place within which the Person removed shall happen to reside, whereby the said Duties may be levied, then and in every such case any *Two* or more of such last-mentioned Commissioners are hereby authorized and required, by warrant under their hands and seals, to commit the Person so making default of payment as aforesaid, to the Common Gaol, there to be kept without bail or mainprize until payment shall be made of the said Duties, and of all reasonable costs and expenses.

Commissioners of the District to which any Person shall remove, without paying the Duties assessed, to commit such Person to prison, in default of sufficient Distress.

16. Defaulters committed to Prison to be liable to the Payment of the Expenses of their Commitment.

And be it Enacted, That in any case where, under or by virtue of any Act or Acts in force relating to the Duties of Assessed Taxes, or by or under this Act, the Commissioners of Taxes are authorized to commit any Person to prison in default of payment of any of the said Duties, it shall be lawful for the said Commissioners, by their Warrant of Commitment, to direct that any such Person shall be detained and kept in Prison until payment shall be made, as well of the said Duties, as of such further sum as the said Commissioners shall adjudge to be reasonable for the costs and expenses of apprehending such Person, and

and of conveying him or her to Prison; and every such Person shall be detained and kept in Prison according to the tenor and effect of such Warrant.

18. Commissioners of Taxes, by the direction of the Commissioners of the Treasury or the Commissioners of Stamps and Taxes, may release Prisoners committed for nonpayment of Duties or Penalties.

And be it Enacted, That where, under or by virtue of any Act or Acts in force, any Person hath been or shall be committed to prison by or under any Warrant of the Commissioners of Taxes acting within or for any district or division, for or by reason of his or her neglect or omission to pay any Duties which may have been assessed or charged upon him or her, or any Penalty incurred by him or her under any Act or Acts in force relating to the Land or Assessed Taxes, and he or she is or shall be detained in custody solely under the authority of any such Warrant as aforesaid, it shall be lawful for the same Commissioners, or for any *Two* or more of the Commissioners acting within or for the same district or division, and they are hereby fully authorized and required, at the request or by the direction of the Commissioners of His Majesty's Treasury, or the Commissioners of Stamps and Taxes for the time being, signified in writing, signed by the Secretary, or one of the Secretaries of the said respective Commissioners last mentioned, to issue their Warrant to the Gaoler or Keeper of any Gaol or Prison in which any such Person may be detained, for the liberation of such Prisoner, and upon the receipt of such last-mentioned Warrant, such Gaoler or Keeper shall forthwith release and discharge out of custody such Prisoner, if for no other cause than as aforesaid he or she shall be detained.

19. Limitation of Actions for matters done in pursuance of the Acts relating to the Land Tax.

AND for the protection and indemnity of the Commissioners, and other Persons acting in the execution of the several Acts relating to the Land Tax; BE it Enacted, That if any action or suit shall be brought against any Person or Persons for any thing done in pursuance of any Act or Acts relating to the Land Tax, such action or suit shall be commenced within *Six* calendar Months next after the fact committed, and not afterwards, and shall be laid in the county or place where the cause of complaint did arise, and not elsewhere; and no writ or process shall be sued out for the commencement of such action or suit until *One* calendar Month next after notice, in writing, shall have been delivered to or left at the usual place of abode of such Person or Persons, by the Attorney or Agent for the intended Plaintiff or Plaintiffs, in which notice shall be clearly and completely contained the cause and causes of action, the name and place or places of abode of the intended Plaintiff or Plaintiffs, and of his or their Attorney or Agent; and no evidence shall be given on the trial of such action or suit of any cause or causes of action, than such as is or are contained in such notice; and the intended Defendant or Defendants to whom such notice shall have been delivered, may, at any time before the expiration of such calendar month, tender Amends to the intended

One Month's notice of Action to be given to the Party by the Attorney for the Plaintiff, containing certain particulars.

The Defendant may tender Amends, which (if not accepted) may be pleaded in bar of Action.

intended Plaintiff or Plaintiffs, his or their Attorney or Agent; and in case such Amends shall not be accepted, may plead such tender in bar to any action or suit, to be brought against him or them, grounded on such notice, writ or process; and the Defendant or Defendants, in every such action or suit, may plead the General Issue, and also such tender and any other plea with leave of the Court, in bar of such action or suit, and may give this Act, and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the Defendant in any such action or suit, or if the Plaintiff or Plaintiffs shall be nonsuited, or discontinue his her or their action or suit, after the Defendant or Defendants shall have appeared, and if, upon demurrer, judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have *Treble* Costs, and have the like remedy for the same as any Defendant hath in any other case to recover costs by law; and every such action or suit which shall be brought against any Collector or Collectors of the Land Tax, shall be defended by the Commissioners acting for the division or place where such Collector shall have been appointed, and the costs and charges attending the same, as also any other action or suit to be brought by or against Commissioners or Collectors, for any thing done in pursuance of any Act or Acts relating to the Land Tax, shall be defrayed by an assessment made in a just proportion on the several lands tenements and hereditaments, chargeable to raise the quota fixed or assessed on the parish or place in or relating to which the alleged cause of action shall have arisen, or for which such Collector or Collectors shall have been appointed.

Defendant may plead the General Issue.

Defendants to have Treble Costs.

Actions brought against Collectors to be defended by the Commissioners of the District, and the costs and charges attending the same; and also any other Actions to be brought by or against Commissioners or Collectors, to be defrayed by an Assessment on the Parish.

20.

Recital of 1 & 2 Will. 4, c. 32. s. 25.

AND whereas by an Act passed in the first and second years of the reign of His present Majesty, intituled, "An Act to amend the Laws in England relative to Game," it is, amongst other things, enacted, That if any Person not having obtained a Game Certificate (except such Person be licensed to deal in Game according to the said Act), shall sell or offer for sale any Game to any Person whatsoever, or if any Person authorized to sell Game under the said Act, by virtue of a Game Certificate, shall sell or offer for sale any Game to any Person whatsoever, except a Person licensed to deal in Game according to the said Act, every such offender shall, on conviction of any such offence before two Justices of the Peace, forfeit and pay for every head of Game so sold, or offered for sale, such sum of money, not exceeding Two Pounds, as to the said Justices shall seem meet, together with the costs of the conviction; and it is by the said last-mentioned Act also enacted, That if any Person not being licensed to deal in Game, according to the said Act, shall buy any Game from any Person whatsoever, except from a Person licensed to deal in Game according to the said Act, or bonâ fide from a Person affixing to the

s. 27.

the outside of the front of his house, shop or stall, a board, purporting to be the board of a Person licensed to deal in Game, every such offender shall, on conviction thereof before Two Justices of the Peace, forfeit and pay for every head of Game so bought, such sum of money, not exceeding Five Pounds, as to the said Justices shall seem meet, together with the costs of the conviction: AND whereas it is expedient to protect and indemnify, in the manner hereinafter mentioned, Persons who inform and prosecute for offences committed against the provisions of the said recited Act; BE it therefore Enacted, That from and after the *passing of this Act*, every Person who shall inform and prosecute, or give evidence against any other Person or Persons for any offence committed or to be committed against any of the said last-recited enactments, shall be indemnified, freed and discharged from all and every penalty and penalties which he or she may have incurred or become liable to under the aforesaid enactments, or any of them, for or by reason of any transaction or dealing which he or she may have had with the Person or Persons against whom he or she shall so inform and prosecute, or give evidence as aforesaid, provided the information or prosecution which the Person so informing and prosecuting, as aforesaid shall have instituted, or upon which the Person shall give evidence shall have been commenced before the institution of any proceedings against him or her for the recovery of any such penalty or penalties which he or she may have incurred, or become liable to as aforesaid.

Indemnity to Persons prosecuting for Offences committed against the recited Enactments.

21. Recital of 1 & 2 Will. 4, c. 32, s. 37.

AND whereas by the said last-recited Act certain penalties and forfeitures for offences against the said Act, are directed to be paid to some one of the Overseers of the Poor, or to some other Officer (as the convicting Justice or Justices may direct) of the parish, township or place in which the offence shall have been committed, to be by such Overseer or Officer paid over to the use of the general rate of the county, riding or division in which such parish, township or place shall be situate, and it is expedient to reward the Persons who shall prosecute offenders against the said Act; BE it therefore Enacted, That from and after the *passing of this Act* one *Moiety* of all such penalties and forfeitures as by the said last-recited Act are directed to be paid and applied as aforesaid, shall go and be paid to the Person who shall inform and prosecute for the same, and the other *Moiety* thereof only shall go and be paid to such Overseer or Officer as aforesaid, and be by him applied in the manner by the said last-recited Act directed; and the form of conviction set forth in the said last-recited Act shall, so far as relates to the distribution of the penalty for which judgment shall be given, be made according to the fact, and conformably with the direction given by this Act as to such distribution.

One Moiety of Penalties recovered to be paid to the Informer, and the other to the Overseer or Parish Officer.

22. Duties on Hawkers and Pedlars in Scotland, granted by 55 Geo. 3, c. 71, to be paid to Commissioners of Stamps and Taxes.

AND whereas it is expedient to transfer the collection and management of the Duties on Hawkers and Pedlars in Scotland from the Commissioners mentioned in an Act passed in the fifty-fifth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act to regulate Hawkers and Pedlars in Scotland," and to place such Duties under the care and management of the Commissioners of Stamps and Taxes; BE it therefore Enacted, That from and after the commencement of this Act the Rates and Duties granted and made payable by the said last-recited Act shall be payable and paid to, and shall be under the care and management of the Commissioners of Stamps and Taxes for the time being, and shall be denominated and deemed to be Stamp Duties.

23. Powers of 55 Geo. 3, c. 71, shall be put in force by the Commissioners of Stamps and Taxes.

And be it Enacted, That all and singular the powers and authorities, rules, regulations and directions contained in the said last-recited Act shall be used, executed, exercised and put in force for the securing and collecting of the Duties thereby imposed by the Commissioners of Stamps and Taxes as fully and effectually to all intents and purposes as if all and singular such powers and authorities, rules, regulations and directions had been originally given and granted to such Commissioners of Stamps and Taxes, and as if the same were repeated and re-enacted in this Act; and it shall be lawful for such Commissioners of Stamps and Taxes, or any Person or Persons to be nominated by them for that purpose, to grant Licenses to Hawkers and Pedlars in Scotland, and to manage the said Duties in like manner as the Commissioners nominated and apointed by the said recited Act might have done before the *passing of this Act*; and that all fines penalties and forfeitures imposed by the said recited Act in respect of any matter or thing to be done or refused or neglected to be done by any Person or Persons in any ways relating to such Duties and Licenses, shall be incurred and forfeited, and shall and may be sued for, recovered and levied, mitigated and applied upon and in respect of the doing or neglecting to do any acts, matters or things relating to the said Duties and Licenses by this Act placed under the care and management of the said Commissioners of Stamps and Taxes.

Penalties, &c. how sued for.

24. Powers, &c. of former Acts, in relation to Duties under Commissioners of Stamps and Taxes, shall be put in force with respect to the Duties put under their management by this Act.

And be it Enacted, That all Powers, Provisions, Clauses, Regulations and Directions, and all Fines, Forfeitures, Pains and Penalties contained in and imposed by any Act or Acts in force immediately before the commencement of this Act, in relation to any of the Duties under the management of the Commissioners of Stamps and Taxes, so far as the same or any of them may be applicable to the said Duties on Hawkers and Pedlars, shall be in full force and effect, and shall be observed, applied, enforced and put in execution with respect to the Duties by this Act placed under the management of the said Commissioners of Stamps and Taxes, and for preventing, detecting and punishing

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punishing all frauds, forgeries and other offences relating to the said Duties, as fully and effectually to all intents and purposes as if all such Powers and Authorities, Rules, Regulations and Directions, Provisions, Fines, Pains, Penalties and Forfeitures, had been repeated and specially enacted in this present Act, and had been applied to the Duties by this Act placed under the management of the said Commissioners of Stamps and Taxes.

25. To commence on the and may be altered.

And be it Enacted, That where no other period is fixed for the commencement of this Act, the same shall commence and take effect on the day of *One thousand eight hundred and Thirty-five*; and that this Act may be altered, amended or repealed by any Act or Acts to be passed in this present Session of Parliament.

6 WILL. IV.—Sess. 1835.

A

B I L L

To consolidate certain Offices in the Collection of the Revenues of Stamps and Taxes, and to amend the Law relating thereto.

(Prepared and brought in by Mr. Chancellor of the Exchequer and Mr. Baring.)

Ordered, by The House of Commons, *to be Printed,*
1 *July* 1835.

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24 *August* 1835.

A

B I L L

To alter certain Duties of Stamps and Assessed Taxes, and to regulate the Collection thereof.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient that all Deeds, Bonds or other Instruments made in Ireland for the purpose of submitting matters in dispute to arbitration, and all Awards thereupon, should be exempted from Stamp Duty; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, all Deeds, Bonds, Agreements or other Instruments made and executed in Ireland, whereby any Person or Persons shall become bound or agree to submit any matter in dispute to arbitration, and also all Awards made in pursuance of any such submission as aforesaid, shall be and the same are hereby exempted from all Stamp Duty whatsoever.

1. Agreements to submit to Arbitration and Awards made in Ireland, exempted from Stamp Duty.

AND whereas, under and by virtue of the laws in force in Great Britain and Ireland respectively, Policies of Assurance or Insurance whereby insurances are made upon lives are chargeable with certain Stamp Duties: AND whereas it is expedient to reduce the Stamp Duties chargeable on all such Policies where the sum insured shall not exceed *One hundred* Pounds; BE it therefore Enacted, That from and after the *passing of this Act*, all Stamp Duties now payable under any Act or Acts in force in Great Britain and Ireland respectively upon any Policy of Assurance or Insurance, or other instrument, by whatever name the same shall be called, whereby any Insurance shall be made upon any life or lives, or upon any event or contingency relating to or depending upon any life or lives, where the sum insured shall not exceed *One hundred* Pounds, shall respectively cease and determine, and shall be and the same are hereby repealed.

2. Stamp Duty on Policies of Insurance on Lives not exceeding 100 *l.* repealed.

3. Policies of Insurance on Lives not exceeding 100 *l.* subject to a reduced Stamp Duty.

And be it Enacted, That from and after the *commencement of this Act*, in lieu and instead of the Duties upon Policies of Assurance or Insurance hereby repealed, there shall be raised, levied, collected and paid in Great Britain and Ireland respectively, unto and for the use of His Majesty, His heirs and successors, the several Stamp Duties or sums of money following; (that is to say)

For and upon every Policy of Assurance or Insurance or other Instrument, by whatever name the same shall be called, whereby any Insurance shall be made upon any life or lives, or upon any event or contingency relating to or depending upon any life or lives:

Where the sum insured shall not exceed Fifty Pounds, the Stamp Duty or sum of *Two* Shillings and *Sixpence*:

And where it shall exceed Fifty Pounds, and not exceed One hundred Pounds, the Stamp Duty or sum of *Five* Shillings.

4. Commissioners of the Treasury authorized to compound with the East India Company for the Stamp Duties on India Bonds.

AND whereas it is expedient that the Bonds to be made and issued by the East India Company for the payment of any definite and certain sum of money, should be freed and exempted from all Stamp Duties upon payment of the said Company of an annual sum as Composition for and in lieu of such Duties in the manner hereinafter mentioned; BE it therefore Enacted, That from and after the *passing of this Act* it shall be lawful for the Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them, from time to time to compound and agree with the East India Company for the payment by the said Company of such an annual sum of money as the said Commissioners shall deem to be a reasonable Composition for and in lieu of the Stamp Duties, which would otherwise be payable on such Bonds as aforesaid, to be made and issued by the said Company at any time during the term for which such Composition shall be made; which said sum of money so agreed upon shall be paid to the Receiver-General of Stamps and Taxes, by two equal half yearly payments, on such days in every year during the said term, as the said Commissioners shall appoint for that purpose, and the payment thereof accordingly shall be secured by the Bond of the said Company, which is hereby exempted from Stamp Duty; and every such Composition shall be made either for *One* Year, or for any term not exceeding *Five* Years, at the discretion of the said Commissioners, and may be renewed and continued from time to time for any further term not exceeding as aforesaid, and for the payment of the same or any greater or less annual sum as the said Commissioners shall deem to be reasonable, and upon such Composition being agreed upon and secured in manner aforesaid, all the Bonds for the payment of any definite and certain sum or sums of money which shall be made and issued by the said Company during the term for which such Composition shall be made, renewed or continued, shall be and the same are hereby freed and exempted from all Stamp Duties.

AND

5.
Transfers in England of the Territorial Debt of the East India Company to be chargeable with a Stamp Duty of 30*s.* only.

AND whereas under and by virtue of the laws in force in Great Britain the transfer of any share in the Stock and Funds of the East India Company, whether upon a sale or otherwise, is subject to a Stamp Duty of One Pound Ten Shillings: AND whereas a portion of the Territorial Debt of the said Company in India may be transferred from the books of the Company in India to their books in England, and may be transferrible in such last-mentioned books in the same manner as the Stock and Funds of the said Company, commonly called East India Stock, are now transferrible; and it is expedient that all transfers of the said Territorial Debt which may be made in England should be subject only to the same amount of Stamp Duty as transfers of shares in the Stock and Funds of the said Company, called East India Stock, are now subject to as aforesaid; BE it therefore Enacted, That from and after the *passing of this Act* every transfer of any part of the said Territorial Debt in the books of the said Company in England, whether upon a sale thereof or otherwise, shall be chargeable with a Stamp Duty of *One* Pound *Ten* Shillings and no more.

6.
Letters of Attorney for voting on the Election of East India Directors exempted from Stamp Duty.

AND whereas under and by virtue of the laws in force in Great Britain and Ireland respectively, Letters or Powers of Attorney are chargeable with certain Stamp Duties; and it is expedient to exempt from such Duties the Letters or Powers of Attorney hereinafter mentioned; BE it therefore Enacted, That from and after the *passing of this Act* all Letters or Powers of Attorney for voting on any Election of a Director or Directors of the East India Company shall be, and the same are hereby exempted from all Stamp Duties whatsoever.

7.
Members of any One of the Four Inns of Court may be admitted in any other of the said Inns free of Duty.

AND whereas, under and by virtue of the laws in force, every admission of any person to be a member of either of the four Inns of Court in England, is chargeable with a Stamp Duty of Twenty-five Pounds; and it is expedient to exempt persons who may be admitted in more than one of the said Inns of Court from the Stamp Duty payable on the latter of such admissions. BE it therefore Enacted, That from and after the *passing of this Act*, where any person who is or shall be admitted a member of any one of the said Inns of Court, shall afterwards be admitted a member of any other of the said inns of court, the latter admission shall be free of Duty, provided he shall have paid the proper Stamp Duty on his former admission, according to the laws then in force.

8.
4 & 5 W. 4, c. 54.
The time for giving Notice of intention to compound for Assessed Taxes enlarged until the 1st October 1835.

AND whereas, by an Act passed in the last Session of Parliament, intituled, "An Act to continue for Five Years from the Fifth day of April One Thousand Eight Hundred and Thirty-five, and to amend the Acts for authorizing a Composition for Assessed Taxes," persons who had compounded for certain of the Duties of Assessed Taxes under the Acts therein referred to were authorized to continue their former

Compositions for a further term, and persons who had not so compounded were authorized to compound for the same Duties for the term and in the manner and on the conditions in the said Act mentioned or referred to, provided that such persons respectively should give notice of their intention so to continue their former Compositions, or to compound on or before the Fifth day of April One thousand eight hundred and Thirty-five in England, and on or before the term of Whitsunday in the same year in Scotland, in the manner in the said Act prescribed; and it is expedient to enlarge the periods for compounding under the said Act; BE it therefore Enacted, That the several periods limited by the said last-recited Act for giving any such notice as aforesaid in England and Scotland respectively, shall be and the same are hereby extended until the *First* day of *October One thousand eight hundred and Thirty-five* inclusive, and the respective Surveyors to whom such notices have been or shall be delivered within the period limited by this Act shall diligently inquire into and examine such notices, and certify their assent or objection thereto, at any time within *One* calendar Month next after the delivery thereof respectively, or at the furthest within *One* calendar Month next after the said *First* day of *October*; and the respective Commissioners acting in the execution of the said Acts are hereby authorized and required to enter into composition with such persons respectively who have given or shall within the period limited by this Act give such notices as aforesaid, subject to the rules, regulations, and according to the provisions of the said recited Act, in like manner as if such notices had been delivered within the time limited by the said recited Act, provided the Contracts of such Compositions respectively shall be executed by the said Commissioners and the Party compounding on or before the *First* day of *December One thousand eight hundred and Thirty-five*, and which Contracts of Compositions when executed by the said Commissioners, or any *Two* or more of them, and by the Party aforesaid, in the manner by the said recited Act directed, shall be of the like force and effect, and subject to the like powers and conditions for payment to all intents as if the said Compositions had been entered into under the directions of the said recited Act: Provided always, That upon every Contract of Composition executed as aforesaid after the *First* day of *October One thousand eight hundred and Thirty-five*, there shall be paid one *Moiety* of the annual amount payable under the same within *Ten* Days next after the date of such contract.

9. Composition on Four Wheel Carriages drawn by one Horse only declared valid.

AND whereas doubts have arisen whether persons are entitled to compound under the said last-recited Act for the Duties on Carriages with four wheels, and drawn by one horse only; FOR removing such Doubts, Be it Enacted and Declared, That it shall be lawful for any person keeping any Carriage of the description aforesaid to compound for the Duties on all such Carriages under the said last-recited Act, and

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and that all Contracts of Composition which have been made or entered into, or which, within the time limited by this Act, may be made or entered into under and in conformity with the provisions of the said recited Act, and of this Act, for or in respect of the Duties on any Carriages of the description aforesaid, shall be and the same are hereby declared to be good, valid and effectual to all intents and purposes whatsoever; and all persons who have compounded or shall compound for the Duty on any such Carriage, shall be at liberty also to set up, keep and use a Carriage with four wheels drawn by two or more horses, on payment of the difference of Duty, and the per centage thereon in like manner, and under and subject to the same conditions, rules and regulations as persons who have compounded for a two-wheel Carriage are by the laws in force entitled to set up, keep and use a Carriage with four wheels.

10. Commissioners of the Treasury authorized to appoint Distributors and Sub-distributors of Stamps to be Collectors of the Land and Assessed Taxes in Scotland.

AND whereas the Revenues arising from the Duties of Stamps, and the Land and Assessed Taxes in Great Britain, are now under the care and management of one consolidated Board of Commissioners of Stamps and Taxes, and it would facilitate the collection of the Land and Assessed Taxes in Scotland, and tend to reduce the expense of receiving and remitting that branch of the Public Revenue, if the several Distributors and Sub-distributors of Stamps or other Persons employed in the receipt and collection of the Stamp Duties in Scotland, were also appointed Collectors of the Land and Assessed Taxes; BE it therefore Enacted, That from and after the *passing of this Act* it shall be lawful for the Commissioners of His Majesty's Treasury, or any *Three* or more of them, to appoint such and so many of the Distributors and Sub-distributors of Stamps in Scotland, or such other persons as the said Commissioners may think fit to be Collectors or other Officers for collecting and receiving the Land Tax and Assessed Taxes in Scotland, and for such parts of Scotland, and with such Salaries and Allowances as the said Commissioners of His Majesty's Treasury shall think fit, and such persons shall hold their respective offices during the will and pleasure of the said Commissioners of His Majesty's Treasury, or of the Commissioners of Stamps and Taxes, in such manner as the said Commissioners of His Majesty's Treasury shall direct; and such persons shall in all matters and things relating to the execution of their duties be subject to the authority, directions and control of the Commissioners of His Majesty's Treasury and the Commissioners of Stamps and Taxes, and shall obey such orders and instructions as shall from time to time be issued to them by the said Commissioners respectively: Provided always, That the Land Tax Commissioners and Commissioners for putting in execution the Assessed Tax Acts in Scotland, shall have no power or authority whatever to appoint persons to collect the said Land Tax and Assessed Taxes, or to remove, or call to account, or examine or enforce payment of

balances due by the persons appointed by virtue of this Act; any thing in any Act or Acts contained to the contrary notwithstanding.

11. Such Collectors to give Security.

And be it Enacted, That the Collectors and other Officers to be appointed as aforesaid shall, before they shall act in the execution of their respective offices, give security by Bond to His Majesty, His heirs and successors, to such an amount and in such terms as the Commissioners of Stamps and Taxes shall think fit, and with sufficient sureties, to the satisfaction of the said Commissioners.

12. Bonds, Commissions, &c. under this Act to be free from Stamp Duty and Fees.

And be it Enacted, That all Bonds, Bills and Securities whatsoever to be entered into with or given by the Collectors to be appointed under the provisions of this Act, or their respective sureties, with relation to the said Duties of Land and Assessed Taxes respectively, shall be free from all Stamp Duty whatever; and no Collector appointed under this Act as aforesaid shall in any case be liable to or charged with any Stamp Duty, fee or gratuity on his Commission, Warrant, or other Instrument to be obtained or had, either on his first appointment or any renewed or succeeding appointment to be such Collector as aforesaid under this Act, nor to any fee or gratuity for any matter or thing incident to the execution of his office or for auditing or passing his accounts, either in His Majesty's Treasury or the Office for Taxes, or any other office.

13. 43 G. 3, c. 150. Land-Tax in Scotland to be collected and paid under the same Rules as the Assessed Taxes.

AND whereas by an Act passed in the forty-third year of the reign of King GEORGE the Third, intituled, "An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the management of the Commissioners for the Affairs of Taxes, and for amending the said Acts, so far as the same relate to that part of Great Britain called Scotland," it is enacted, that the Land Tax in Scotland shall be assessed, raised, levied and paid under the regulations of the last recited Act, and it is expedient to alter the said enactment; BE it therefore Enacted, That the Land Tax in Scotland shall be recovered, levied, collected and paid under the same rules, regulations, provisions and penalties as the Assessed Taxes in Scotland now are or may hereafter be recovered, levied, collected and paid; any thing in the said last recited Act or any other Act or Acts contained to the contrary thereof in anywise notwithstanding.

14. 44 Geo. 3, c. 98.

AND whereas by an Act passed in the forty-fourth year of the reign of King GEORGE the Third, intituled, "An Act to repeal the several Duties under the Commissioners for managing the Duties upon Stamped Vellum, Parchment and Paper in Great Britain, and to grant new and additional Duties in lieu thereof," a Duty of Two Pounds and Two Shillings over and above all other Duties was granted, and is now payable in Great Britain, for every Horse, Mare or Gelding entered to start

start or run for any plate, prize, sum of money, or other thing whatsoever: AND whereas, certain Duties of Assessed Taxes, amounting to the sum of One Pound Eight Shillings and Nine-pence have also been granted, and are now payable in Great Britain under Schedule (E.) number Three, of two several Acts, passed respectively in the forty-eighth and fifty-second years of the reign of the said King GEORGE the Third, for every Horse, Mare or Gelding kept for the purpose of racing or running for any plate, prize or sum of money, or other thing, or kept in training for any of the said purposes: AND whereas the said several Duties of Two Pounds Two Shillings, and One Pound Eight Shillings and Nine-pence, are respectively levied and collected by different officers and under different rules and regulations; and it would give relief to the persons chargeable therewith, and tend to facilitate the collection thereof, if the same were reduced in amount, and assessed and levied in one sum in the manner hereinafter mentioned; BE it therefore Enacted, That from and after the *passing of this Act*, the said several Duties of *Two* Pounds *Two* Shillings, and *One* Pound *Eight* Shillings and *Nine-pence*, granted and now payable as aforesaid, under and by virtue of the said several Acts hereinbefore recited or referred to, shall be, and the same are hereby severally repealed, save and except as to any arrears of the said respective Duties, and any penalties incurred in relation thereto, all which said arrears and penalties may be sued for, recovered, levied and applied in the same manner as if this Act had not been passed.

48 Geo. 3, c. 55, and 52 Geo. 3, c. 93, Sch. (E.) No. 3.

Repeal of the Duties granted by the recited Acts on Race Horses.

15. And be it Enacted, That for and in lieu of the said several Duties by this Act repealed as aforesaid, there shall be granted and payable upon all Assessments made or to be made for any year, commencing from or at any time after the *Fifth* day of *April One thousand eight hundred and Thirty-five*, for every Horse, Mare or Gelding, kept or used for the purpose of racing, or running for any plate, prize or sum of money, or other thing, or kept in training for any of the said purposes, whether in the stables of the proprietor or proprietors, or of any other person or persons, the annual sum of *Three* Pounds *Ten* Shillings, which shall be charged on the person or persons having the custody, care or management of any such Horse, Mare or Gelding, and shall be assessed, collected, levied and applied in like manner, and under the same provisions, rules and regulations as the Duties granted and now payable under Schedule (E.) of the said Acts passed respectively in the forty-eighth and fifty-second years of the reign of King GEORGE the Third are now assessed collected, levied and applied.

15. Duty of 3*l.* 10*s.* per Annum to be charged on Race Horses in lieu of former Duties.

16. AND whereas by an Act passed in the last Session of Parliament, intituled, "An Act to grant Relief from the Duties of Assessed Taxes in certain cases," exemption from duty for one horse, mare, gelding or

Exemption granted to Farmers from the Duty on one Riding Horse by

4 & 5 Will. 4, c. 73, s. 6, explained and mended.

or Mule, kept and used for the purpose of riding or drawing any carriage not chargeable with Duty, was granted to every Person occupying a farm or estate of less annual rent or value than in the said Act is specified, under and subject to the provisoes and conditions therein mentioned: AND whereas doubts have arisen as to the Persons entitled to the relief intended to be granted under the said exemption; FOR the removal whereof, Be it Enacted and Declared, That so far as relates to any Assessment of the Duties of Assessed Taxes, made or to be made for any year commencing from or at any time after the *Fifth* day of *April One thousand eight hundred and Thirty-five*, the said Exemption shall be deemed and construed to extend only to such occupiers of farms or estates under the rent or value in the said Act specified, as obtain their livelihood principally by husbandry on such farms or estates in their respective occupation, under and subject nevertheless to the several provisoes and conditions in the said recited Act contained.

17. Recital of the Exemption granted to certain Officers by 52 Geo. 3, c. 93, Sch. (C.) for one Male Servant being a Soldier.

AND whereas under and by virtue of an Act passed in the fifty-second year of the reign of King GEORGE the Third, intituled, "An Act for granting to His Majesty, certain new and additional Duties of Assessed Taxes, and for consolidating the same with the former Duties of Assessed Taxes," exemption from the Duties payable for Male Servants retained or employed in the several capacities mentioned in Schedule (C.) Numbers One and Two to the said Act annexed is granted to the several Officers hereinafter described, every such Officer retaining or employing as a servant one male person only; (that is to say) to every Officer serving in any regiment of Horse or Dragoons, under the rank or not receiving the pay of a Field Officer, for one Servant being actually a soldier in the regiment, troop or squadron to which such Officer shall belong; and to every Officer serving in any regiment of Artillery, Infantry, Royal Marines, Royal Garrison Battalions or Corps of Engineers, for one Servant being actually a soldier in the regiment or company to which such Officer shall belong: AND whereas it is expedient to extend the said exemption in the manner hereinafter mentioned; BE it therefore Enacted, That upon all Assessments made or to be made for any year commencing from or at any time after the *Fifth* day of *April One thousand eight hundred and Thirty-five*, the said exemption shall be, and the same is hereby extended and granted to all Officers serving in any regiment of Horse or Dragoons, or in any Regiment of Artillery, Infantry, Royal Marines, Royal Garrison Battalions or Corps of Engineers for so many Male Servants, being such soldiers as aforesaid, as may be allowed to them respectively by the regulations of the public service in whatever capacity any such soldier may be employed, and without regard to any other Male Servants retained or kept by any such Officer, and for which he may be liable to be assessed: Provided always, That all such Servants shall be duly returned to the Assessor, and the exemption claimed in manner aforesaid.

Exemption extended to such number of Servants being Soldiers as may be allowed to each Officer by the Regulations of the Service.

A

B I L L

To alter certain Duties of Stamps and Assessed Taxes, and to regulate the Collection thereof.

(*Prepared and brought in by Mr. Chancellor of the Exchequer and Mr. Baring.*)

Ordered, by The House of Commons, *to be Printed*, 24 *August* 1835.

509

31 *July* 1835.

A

B I L L

To regulate the Navigation of Steam Vessels upon the River Thames.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS great inconveniences are experienced in the Port of London, and numerous accidents have occurred, and losses and expenses have been sustained in consequence of the Velocity with which Steam Vessels are navigated upon the River Thames: Preamble.

And whereas it is expedient that certain Regulations should be established for the better security of Passengers and Goods embarked and loaded on board of Steam Vessels;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Owner, Master, Captain or other Person having the command, direction or management of any Steam Vessel shall, when navigating the River Thames between the Limehouse entrance of the West India Docks and London Bridge, throttle the valves of the Steam Engine or Engines on board the Vessel under his command, direction or management as aforesaid, or otherwise regulate such Engine or Engines, so that the number of the strokes thereof shall be reduced to one-half of the number of strokes required to propel the Vessel at full speed, and shall not propel or permit or suffer the said Vessel to be propelled, or to proceed at any greater rate or speed than *Five* Miles or Knots in one hour; and the Owner, Master, Captain or other Person, having the command, direction or management of any Steam Vessel, who shall fail to reduce the number of strokes of the Engine or Engines on board his said Vessel, or to limit the speed thereof

I. For limiting the velo ity of Steam Vessels when navigating on the River Thames, between the West India Docks and London Bridge.

thereof in manner above directed, when navigating within the said limits, shall for the first offence forfeit and pay any sum not exceeding *Twenty* Pounds; for the second offence any sum not less than *Twenty* Pounds, or more than *Fifty* Pounds; and for every subsequent offence not less than *One hundred* Pounds, unless it shall appear to the Magistrate before whom the complaint shall be heard, that such additional speed was rendered absolutely necessary in order to avoid danger or risk of committing damage.

2. Velocity of Steam Vessels to be checked when near any deep-loaded Barge, &c.

And be it further Enacted, That the Owner, Master, Captain or other Person having the command, direction or management of any Steam Vessel upon the River Thames, shall, when such Steam Vessel shall be near any deep loaded barge, or other craft, passage boat, skiff or wherry, check the Velocity of such Steam Vessel on pain of forfeiting for every case in which injury or damage shall ensue from his neglect or omission to do so, any sum not exceeding *Ten* Pounds in addition to such sum or sums as he may be liable to pay to the Person or Persons sustaining such injury or damage.

3. Number of Passengers

And be it further Enacted, That no Steam Vessel upon the River Thames shall be allowed to carry more than *Three* Passengers for every ton of her burthen, children under the age of Twelve Months not to be included, and Two Children, each being under Fourteen Years of age but above Seven Years of age, or Three Children, each being under Seven Years of age, to be accounted as one Passenger; and if any Owner, Master, Captain or other Person having the command, direction or management of any Steam Vessel, shall allow more than the aforesaid number of Passengers to be carried on board any such Steam Vessel, he shall forfeit the sum of *Ten* Pounds for every such offence.

4. Limits of this Act.

And be it further Enacted, That this Act shall extend and be construed to extend to all parts of the River Thames, from and opposite to and including the town of New Windsor, in the county of Berks, to and opposite to and including Yantlet Creek, in the county of Kent, and to all Docks, Canals, Creeks and Harbours, of or out of the said River so far as the tide flows therein.

5. Power vested in Lord Mayor, Recorder, Aldermen, and Justices to summon and apprehend Offenders, examine Witnesses on oath, and punish by Fine or Imprisonment.

And be it further Enacted, That in case any Person or Persons shall offend against this Act, it shall be lawful for the Lord Mayor, Recorder or any one Alderman of the city of London, in respect to any part of the said River within the jurisdiction of the Conservancy of the River Thames, between Staines Bridge, in the counties of Middlesex and Surrey, and Yantlet Creek, in the county of Kent, and the City Stone at Leigh, in the county of Essex, or for any Justice of the Peace for the respective counties and places next adjoining to the said River of Thames, at and between Yantlet Creek and Windsor, and every of them within his several and respective jurisdiction, and for any Justice of the Peace acting in and for the corporation, villages and parishes of Gravesend and Milton within his jurisdiction (which shall include

for

for the purposes of this Act any part of the said River between Broadness Point, in the Northfleet Hope, in the said county of Kent and Yantlet Creek aforesaid), and he respectively is hereby required, upon complaint made of any such offence or misbehaviour committed within his said respective jurisdiction, within *Thirty* Days after the commission of any such offence or misbehaviour, to cause the offender or offenders to be summoned personally, or by leaving such summons at his her or their last or usual respective place of abode to appear and answer the said complaint; and if any Person being duly summoned as aforesaid, shall refuse or neglect to appear and answer to any complaint or complaints made against him her or them for any offence or offences committed by him her or them against this Act, it shall be lawful for the said Lord Mayor, Recorder, Alderman or Justice respectively in his respective jurisdiction as aforesaid, to issue his Warrant for apprehending such Person, upon oath being made of the service of such summons, and to cause the Party so offending or misbehaving to be brought before him, and the Party accused being before such Lord Mayor, Recorder, Alderman or Justice respectively, either by means of such summons, or of such warrant or warrants as aforesaid, he respectively is hereby authorized and required to examine upon oath the Complainant, or any Witness or Witnesses touching such offence or misbehaviour; and if the Party or Parties accused shall be convicted of any such offence or misbehaviour, either by his her or their own confession, or by the oath of the Complainant, or of one or more credible Witness or Witnesses, it shall be lawful for the Lord Mayor, Recorder, Alderman or Justice respectively, to impose a fine upon such offender or offenders for the said offence, not exceeding the penalty or penalties inflicted or to be inflicted by this Act; and if the Person or Persons so convicted shall not forthwith pay the penalty or forfeiture so imposed upon him her or them, it shall be lawful for the said Lord Mayor, Recorder, Alderman or Justice, and he is hereby required by warrant, under his hand and seal, to cause the same to be levied, together with the costs attending the information, summons, warrant and conviction by distress and sale of the goods and chattels of the Party offending, and the overplus (if any) after such penalty or forfeiture, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner or owners of such goods and chattels; and in case such penalty or forfeiture shall not be forthwith paid upon conviction, then it shall be lawful for such Lord Mayor, Recorder, Alderman or Justice, to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security to the satisfaction of such Lord Mayor, Recorder, Alderman or Justice, for his or their appearance on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than *Seven* Days from the time of taking any such security, and which security the said Lord Mayor, Recorder, Alderman or Justice is hereby empowered to take, by way of recognizance or otherwise; but if, upon the return of such warrant, it shall appear that no sufficient

distress can be had thereupon, then it shall be lawful for such Lord Mayor, Recorder, Alderman or Justice, and he is hereby authorized and required, by warrant or warrants under his hand and seal, to cause such offender or offenders to be committed to the common gaol or house of correction of the city, county, liberty or place where the offender shall be or reside, there to remain without bail or mainprize for any time not exceeding *Three* calendar Months, unless such penalties and forfeitures and costs, and all reasonable charges attending the same, shall be sooner paid and satisfied.

6. Penalty for going beyond regulated speed to be enforced only at the discretion of the Magistrate.

Provided always, and be it further Enacted, That it shall be in the discretion of such Justice respectively not to convict any Person of the offence of not restraining or reducing the speed or velocity of any such Vessel as aforesaid when it may appear that the speed could not be immediately regulated without danger or risk of committing damage, or if the speed was increased for a short time to avoid some evident risk, and that there was no wilful neglect or omission to restrain or reduce the same.

7. Justices may allow Five Passengers for every One hundred Tons over the limited number.

Provided always, and be it further Enacted, That if the number of Passengers taken or carried in any such Vessel above the number such Vessel shall be allowed to carry as aforesaid shall not exceed *Five* Passengers for every One hundred Tons of her burthen, it shall be in the discretion of such Justice respectively not to convict any Person of the offence of taking a greater number of Passengers in any such Vessel than she shall be allowed to carry.

8. Distribution of Penalties.

And be it further Enacted, That all pecuniary Penalties which shall be recovered before the said Lord Mayor, Recorder, Alderman or Justice respectively under the provisions of this Act, shall respectively be divided and distributed in manner following; (that is to say) one *Moiety* thereof to His Majesty, and the other *Moiety* thereof, with full costs, to the Person who shall inform and prosecute for the same.

9. Form of Conviction.

And be it further Enacted, That every Lord Mayor, Recorder, Alderman or Justice before whom any Person shall be convicted of any offence against this Act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect; (that is to say)

to wit. } BE it Remembered, That on the . . . . . day of . . . . . in the year of our Lord . . . . . A.B. is convicted before me [as the case may be] Lord Mayor, Recorder or Alderman of the city of London, [or, one of His Majesty's Justices of the Peace for the county of . . . . . or incorporated villages and parishes of Gravesend and Milton,] for [here set forth the offence,] contrary to an Act passed in the . . . . . year of the reign of King WILLIAM the Fourth, intituled, [here set forth the title of this Act]; and I do adjudge

adjudge him to pay and forfeit for the same, the sum of being the Penalty by him forfeited, and also the sum of for loss of time and costs [if awarded, as the case may be,] or to be committed to for the space of Given under my hand and seal the day and year aforesaid."

10. Mayor, &c. may administer Oaths.

And be it further Enacted, That in every case in which any oath is by this Act directed to be made or taken, or any matter or thing is directed to be proved by oath, the said Lord Mayor, Recorder or any Alderman at any Court of Mayor and Aldermen, or the said Lord Mayor, Recorder, Alderman or Justice respectively, before whom such oath is hereby directed to be made or taken, or such matter or thing to be proved, shall have full power to administer the oath, or instead thereof to receive a solemn affirmation, as the case may require.

11. For compelling the attendance of Witnesses.

And be it further Enacted, That if any Person who shall be summoned as a Witness to give evidence before any Lord Mayor, Recorder, Alderman or Justice respecting any matter of fact relating to any information or complaint for any offence against this Act, either on the part of the Prosecutor or the Person or Persons accused shall, after a reasonable sum for his or her costs shall have been paid or tendered to him or her, refuse or neglect to appear at the place and time by such summons appointed without a reasonable excuse for such neglect or refusal, such Person or Persons shall forfeit for every such neglect or refusal any sum not exceeding *Forty* Shillings.

12. Distress not unlawful for want of form.

And be it further Enacted, That when any distress shall be made by virtue of this Act, the distress itself shall not be deemed unlawful, nor shall the Party or Parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the summons or conviction, warrant of distress, or any proceeding relating thereto; nor shall the Party or Parties be deemed a trespasser or trespassers, ab initio, on account of any irregularity which shall be afterwards committed in making the distress.

13. Persons aggrieved may appeal to the Quarter Sessions.

Provided also, and be it further Enacted, That if any Person or Persons shall think himself herself or themselves aggrieved by the order or judgment of the said Lord Mayor, Recorder or any Alderman or Justice, on account of any offence committed or supposed to have been committed against this Act, such Person or Persons may appeal to the Justices of the Peace at the next General or Quarter Sessions to be holden for the place where such Person or Persons shall have been convicted; or if such Session shall be holden within *Ten* Days after such conviction, then such Person or Persons may appeal either to such next General or Quarter Sessions, or to the Session following such next General or Quarter Sessions, provided the Person or Persons, at the time of such conviction, shall enter into a recognizance, with one sufficient surety, in the sum of *Twenty* Pounds, to prosecute

such appeal with effect, and to abide by the order or orders which shall be made on such appeal; and the said Justices are hereby authorized and required to take cognizance thereof, and to hear and determine such appeal; and shall and may, if they see cause, by order of such Sessions, mitigate at their discretion all or any part of the penalties or forfeitures laid upon or incurred by the Party or Parties appealing, or vacate or set aside the conviction or convictions, or otherwise may ratify or confirm the same, with such costs as to them in their discretion shall seem reasonable, and levy, by their order or warrant, such penalties or forfeitures and costs awarded by distress and sale of the goods and chattels of the Person or Persons who shall refuse to pay the same; and for want of such distress, to commit such Person or Persons to the common gaol for the said county or place where the cause of appeal shall arise, for any time not exceeding *Three* calendar Months, or until payment of such penalties or forfeitures and costs.

14. Proceedings not to be quashed for want of form.

And be it further Enacted, That no proceedings to be had, touching the conviction of any offender or offenders against this Act, or any matter or thing to be done or transacted in or relating to the execution of this Act, shall be vacated or quashed for want of form only, or be removed or removeable by certiorari or any other writ or process whatsoever, into any of His Majesty's Courts of Record at Westminster; any law or statute to the contrary notwithstanding.

15. Plaintiff not to recover without Notice, or after tender of Amends.

And be it further Enacted, That no Plaintiff or Plaintiffs shall recover, in any action to be commenced against any person or persons, body or bodies politic corporate or collegiate, for any thing done in pursuance of this Act, until notice in writing, signed by his her or their Attorney, specifying the cause of action, shall have been given to the Defendant or Defendants, or left at his or their usual or last place or places of abode or meeting, at least *Fourteen* Days before the same shall have been commenced; nor shall the Plaintiff or Plaintiffs recover in any such action, if tender of sufficient amends shall have been made to him her or them, or to his her or their Attorney, by or on the behalf of the Defendant or Defendants, before such action brought; nor if such tender of amends shall be made after the said action brought, and before the trial thereof, together with costs of suit at the time of such last-mentioned tender, but on proof of such tender at any trial to be had in such action, the Plaintiff or Plaintiffs shall suffer judgment as in cases of nonsuit, with double costs, to be recovered in the same manner as any Defendant or Defendants may recover costs in any other case by law; and in case no such tender of amends shall have been made, it shall be lawful for the Defendant or Defendants, by leave of the Court, at any time before issue joined, to pay into Court any sum or sums of money as he she or they shall think fit, whereupon such proceedings, orders and judgments shall be made and given in and by such Court, as in other actions wherein Defendants are allowed to pay money into Court.

And

16. Limitation of Actions.

And be it further Enacted, That no action or suit shall be commenced or prosecuted against any person or persons, body or bodies politic corporate or collegiate, for any thing done in pursuance of this Act, after *Three* calendar Months next after the cause of such action shall have arisen; and every such action or suit shall be brought in the county, city or place in which the cause of action shall have arisen, and not elsewhere; and the Defendant or Defendants in such action or suit may, at his her or their option, either plead specially or plead the General Issue, and give this Act, and the special matter in evidence at any trial or trials which shall be had thereon, and that the same was done in pursuance and by the authority of this Act; and if the same shall appear to have been so done, or that such action or suit was brought without *Fourteen* Days' notice thereof having been given as aforesaid, or after sufficient amends tendered as aforesaid, or if any such action or suit shall not be commenced within the time lastly before limited, or shall be brought in any other county, city or place than where the cause of action shall have arisen, then and in any of such cases the Jury or Juries shall find a verdict for the Defendant or Defendants, and upon such verdict, or if the Plaintiff or Plaintiffs shall become nonsuit, or shall discontinue his her or their action or actions, after the Defendant or Defendants shall have appeared, or if upon demurrer judgment shall be given against the Plaintiff or Plaintiffs therein, then and in any of the cases aforesaid the Defendant or Defendants shall have *Double* Costs, and shall have such remedy for recovering the same as any Defendant or Defendants hath or may have for his or their costs in any other cases by law.

General Issue.

Costs.

17. Public Act.

And be it further Enacted, That this Act shall be deemed to be a Public Act; and shall be judicially taken notice of as such, by all Judges, Justices and others.

6 WILL. IV.—Sess. 1835.

A

B I L L

To regulate the Navigation of Steam Vessels upon the River Thames.

(*Prepared and brought in by*
Mr. Alderman Wood and Mr. Pease.)

Ordered, by The House of Commons, *to be Printed,*
31 *July* 1835.

377

2 *July* 1835.

A

B I L L

For the Regulation of the Pilotage of Steam Vessels.

WHEREAS many of the Laws now in force for the Regulation of Pilots came into operation before the use of Steam Vessels for the purpose of Coasting Navigation: Preamble.

And whereas such Laws are in many respects inapplicable to Steam Vessels, inasmuch as such Vessels for the most part are employed in sailing constantly and regularly between the same Ports and along the same Coasts, and under the command of the same Masters or Mates, who thereby become well acquainted with such Navigation, Ports and Coasts:

And whereas nevertheless the Owners of such Vessels are compelled by such Laws in many Ports of the United Kingdom to incur the large expense of paying Fees to Pilots, or their Apprentices, although their services are not required, and to run great risk by intrusting the charge of valuable Cargoes to Persons in whom they have no confidence, and who are frequently insufficiently acquainted with the peculiar management of such Vessels, while in many other Ports of the United Kingdom it remains optional to take or refuse the aid of Pilots:

And whereas the said Laws are no longer enforced as to Steam Vessels which are under the orders of the Post Office, and apply with great inequality to other Steam Vessels:

And whereas it is expedient to relieve the Owners of Steam Vessels from the compulsory obligation to take in Pilots, and to leave the management of such Vessels to such Masters or Mates as shall have been found duly qualified and licensed to act as Pilots thereto:

May it therefore please Your MAJESTY;

That it may be Enacted; And be it Enacted by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the Master or Mate of any and every Steam Vessel which shall ply between any Ports or Harbours within any part of the United Kingdom, at which any compulsory charge for Pilotage can legally be made, who shall be first duly licensed or admitted as hereinafter enacted as a Pilot of any such Port or Harbour as aforesaid, shall, while acting as such Master or Mate, be deemed and taken to be a Pilot of such Port or Harbour.

1. Masters of Steam Vessels when duly licensed to be deemed Pilots.

And be it further Enacted, That any Body Corporate or Politic, Person or Persons, who at the passing of this Act shall be authorized by Law to license and appoint the Pilots of any such Port or Harbour, shall, on being thereto required by any such Master or Mate, and on the production of a Certificate in writing of the Owner or Owners, or of the Agent of the Owner or Owners of such Vessel or Vessels, stating such Master or Mate respectively to be in the employment of such Owner or Owners as Master or Mate, cause such Master or Mate to be licensed or admitted a Pilot of such Port or Harbour for the navigation or piloting of such Vessel or Vessels, he or they paying the usual and accustomed Fees for such Licen se (if any) payable by Persons admitted or licensed as Pilots in such Port or Harbour; and being found duly qualified upon such examination (if any) as other Persons applying to be admitted as Pilots in such Harbour or Port may be subject to: Provided always, That such Masters or Mates shall not be authorized or liable to act as Pilot or Pilots on board any Vessel or Vessels, other than such as shall be specified in any such Certificate, as belonging to such Owner or Owners; and every such Vessel or Vessels so navigated shall be deemed and taken for all purposes to be navigated by a Pilot duly qualified according to the Laws in force at the time of the passing of this Law.

2. Persons authorized to license Pilots, empowered to license Masters of Steam Vessels as such.

6 WILL. IV.—Sess. 1835.

A

BILL

For the Regulation of the Pilotage of Steam Vessels.

(*Prepared and brought in by Mr. Callaghan and Mr. Wallace.*)

Ordered, by The House of Commons, *to be Printed,* 2 *July* 1835.

12 *August* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the Regulation of the Pilotage of Steam Vessels.

[N. B.—*The Clause marked* (A.) *was added by the Committee.*]

WHEREAS many of the Laws now in force for the Regulation of Pilots came into operation before the use of Steam Vessels for the purpose of Coasting Navigation: Preamble.

And whereas such Laws are in many respects inapplicable to Steam Vessels, inasmuch as such Vessels for the most part are employed in sailing constantly and regularly between the same Ports and along the same Coasts, and under the command of the same Masters or Mates, who thereby become well acquainted with such Navigation, Ports and Coasts:

And whereas nevertheless the Owners of such Vessels are compelled by such Laws in many Ports of the United Kingdom to incur the large expense of paying Fees to Pilots, although their services are not required, and to run great risk by intrusting the charge of valuable Cargoes to Persons in whom they have no confidence, and who are frequently insufficiently acquainted with the peculiar management of such Vessels, while in many other Ports of the United Kingdom it remains optional to take or refuse the aid of Pilots:

And whereas such Laws are not enforced as to Steam Vessels which are under the orders of the Post Office, or which carry Passengers only, and apply with great inequality to other Steam Vessels:

 And

And whereas it is expedient to relieve the Owners of Steam Vessels from the compulsory obligation to take in Pilots, and to leave the management of such Vessels to the Masters or Mates employed to navigate them:

May it therefore please Your MAJESTY,

That it may be Enacted; **And be it Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the First day of January One thousand eight hundred and Thirty-six, every Steam Vessel which shall ply between any Ports or Harbours within any part of the United Kingdom, when and so long as every such Steam Vessel shall be conducted or piloted without the aid or assistance of any unlicensed Pilot, or other person or persons than the ordinary Crew of such Steam Vessel, shall and may be deemed and taken to be navigated according to the laws in force at the time of the passing of this Act; and the Master or Mate, Owner or Owners of every such Steam Vessel, shall not be liable to any charge for Pilotage, or to any Penalty for refusing to take on board a Pilot of any such Port or Harbour; any law, usage or custom to the contrary notwithstanding.

1. Masters of Steam Vessels may refuse to take Pilots aboard.

And be it further Enacted, That when any such Steam Vessel shall or may require the services of any Pilot or Pilots duly appointed or licensed for any Port or Harbour in the United Kingdom, under or by virtue of any Law now in force for regulating Pilots or Pilotage, every such Steam Vessel shall in respect of such services be liable to and charged and chargeable with such Rate of Pilotage as may for the time being be chargeable in such Port or Harbour upon Vessels belonging to His Majesty's subjects employed in the Foreign Trade; and such Steam Vessel shall not be entitled to claim any exemption from such Charge or Rate, or any part thereof, which such Steam Vessel might or could have had or claimed before the passing of this Act; and such Rate for Pilotage shall, notwithstanding the provisions of this Act, be payable by the same Persons as would have been liable to the payment thereof, and be recoverable in such and the same manner as any Rate for Pilotage could be recovered before the passing of this Act.

2. CLAUSE (A.) Steam Vessels requiring Pilots, to pay the Rate charged to Foreign Vessels in the United Kingdom engaged in Foreign Trade.

6 WILL. IV.—Sess. 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the Regulation of the Pilotage of Steam Vessels.

(Prepared and brought in by Mr. Callaghan and Mr. Wallace.)

Ordered, by The House of Commons, *to be Printed,* 12 *August* 1835.

525

6 *April* 1835.

A

B I L L

To provide for the better Collection of the Duties on Wood, the Produce of Places in *Europe*.

WHEREAS by an Act passed in the third and fourth years of the reign of His present Majesty, intituled, "An Act for granting Duties of Customs," certain Duties are made payable upon Wood imported from *Europe*, and certain other Duties are made payable upon Wood imported from the *British* Possessions in *America*; and it is expedient to enforce, in all cases, the payment of the said first-mentioned Duties on all Wood the produce of *Europe*; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Duties payable under the authority of the said Act, upon Wood imported from *Europe*, shall be due and payable upon Wood the produce of *Europe*, although imported from some *British* Possession in *America*; and that such Duties shall be raised, levied, collected and paid unto His Majesty, in like manner as if the same had been made so payable in and by the said Act; any thing in that Act, or in any other Act or Acts, to the contrary notwithstanding.

Preamble.

Duty to be payable upon Wood the produce of Europe, although imported from some British Possession in America.

5 WILL. IV.—Sess. 1835.

A

B I L L

To provide for the better Collection of the Duties on Wood, the Produce of Places in *Europe*.

(*Prepared and brought in by*
Mr. Baring and Lord Viscount Lowther.)

Ordered, by The House of Commons, *to be Printed,*
6 *April* 1835.

10 *August* 1835.

A

B I L L

For the more easy Recovery of Tithes.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS an Act was passed in the seventh and eighth years of the reign of King WILLIAM the Third, intituled, "An Act for the more easy Recovery of Small Tithes," whereby it was amongst other things enacted, that two or more of His Majesty's Justices of the Peace were authorized and required to hear and determine Complaints touching Small Tithes, Oblations and Compositions substracted or withheld not exceeding Forty Shillings: AND whereas an Act was passed in the fifty-third year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for the better Regulation of Ecclesiastical Courts in England, and for the more easy Recovery of Church Rates and Tithes," whereby the jurisdiction of the said Justices was extended to all Tithes, Oblations and Compositions substracted or withheld, where the same should not exceed Ten Pounds in amount from any one person: AND whereas it is highly expedient and would further tend to prevent litigation, if all Suits and Complaints touching Tithes, Oblations and Compositions substracted or withheld, not exceeding Ten Pounds in the whole, from any one person, were determined by two Justices of the Peace in manner in the said first recited Act and as hereinafter mentioned; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, no Suit or other Proceeding shall be had or instituted in any of His Majesty's Courts now having

Preamble: 7 & 8 W. 3.

Proceedings for the Recovery of Tithes under 10*l.* value to be before Two Justices.

cognizance

cognizance of such matter for or in respect of any Tithes, Oblations or Compositions withheld of or under the yearly value of *Ten* Pounds (save and except in the cases provided for in the said recited Acts); but that all complaints touching the same shall be heard and determined only under the powers and provisions contained in the said recited Acts of Parliament, in such and the same manner as if the same were herein set forth and re-enacted.

6 WILL. IV.—Sess. 1835.

A

B I L L

For the more easy Recovery of Tithes.

(Prepared and brought in by Captain Pechell and the Earl of Surrey.)

Ordered, by The House of Commons, *to be Printed,*
10 *August* 1835.

498.

529

10 *August* 1835.

A

B I L L

For the amendment of the Law as to the Tithing of Turnips in certain cases.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS the manner of tithing Turnips in certain cases is exceeding difficult, creating thereby many grievous chargeable and vexatious suits and animosities between Parsons, Vicars, Impropriators and their Parishioners; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act* the Tithes of Turnips severed from the land upon which they have been produced shall, if consumed upon the same either by profitable or unprofitable Sheep, Cattle or other Beasts, be considered as Agistment Tithe, and be recoverable by all such ways and means as Tithe of Agistment may now by law be recovered.

1. Turnips severed from the Land, if consumed on the same, to be considered as Agistment Tithe.

Provided always, and be it Enacted, That this Act, or any thing therein contained, shall not extend to charge any Lands discharged by modus decimandi, ancient composition or otherwise discharged of Tithes by law.

2. Act not to extend to any Land discharged from Tithe.

A

B I L L

For the amendment of the Law as to the Tithing of Turnips in certain cases.

(Prepared and brought in by Captain Pechell and the Earl of Surrey.)

Ordered, by The House of Commons, *to be Printed*,
10 *August* 1835.

(Ireland.)

A

B I L L

To suspend Proceedings for recovering Payment of certain Instalments of the Money advanced under the Acts for establishing Tithe Compositions in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS by an Act passed in the third and fourth years of His Majesty's reign, intituled, "An Act for the Relief of the Owners of Tithes in Ireland, and for the Amendment of an Act passed in the last Session of Parliament, intituled, 'An Act to amend three Acts passed respectively in the fourth, fifth and in the seventh and eighth years of the reign of his late Majesty King GEORGE the Fourth, providing for the establishing of Compositions for Tithes in Ireland, and to make such Compositions permanent,'" it is amongst other things enacted, That it should be lawful for any Person entitled to any Tithes arising out of Lands in Ireland, for the years One thousand eight hundred and Thirty-one, One thousand eight hundred and Thirty-two, or One thousand eight hundred and Thirty-three, to make application to the Lord Lieutenant, praying relief, under the said Act, in respect of such Tithes; and it is further enacted, That such application should be made by a Memorial, with a Schedule thereto annexed, setting forth such particulars as in the said Act are in that behalf mentioned; and it is by the said Act further enacted, That the said Memorial and Schedule amended, as therein is mentioned, should be transmitted in manner therein mentioned to the Lord Lieutenant, who should thereupon authorize and direct such Sum to be advanced to such Memorialist as should appear by the said Memorial and Schedule to be due and owing to him on account of the Tithes therein included; and it is thereby further enacted, That the said Lord Lieutenant

Preamble.

 should

should cause every such original Memorial and Schedule, together with a Certificate, under his hand, of the Amount of the Advances so made to the Memorialist, to be lodged in the Office of the Remembrancer of the Court of Exchequer in Ireland, and that the Amount stated in each such Certificate to have been so advanced should be repaid by Five equal Instalments, the first thereof to be made on the First day of November One thousand eight hundred and Thirty-four, and one of the four remaining Instalments on the First day of November in each of the succeeding four years, in the manner and subject to the conditions recited in the said Act :

And whereas, under the powers contained in the said Act, Advances to a large amount have been made to Parties entitled to Tithes arising out of Lands in Ireland, for the said years One thousand eight hundred and Thirty-one, One thousand eight hundred and Thirty-two, and One thousand eight hundred and Thirty-three :

And whereas it may be expedient not to enforce immediate payment, from the Parties to whom such Advances have been made, of the several Instalments which became due from them on the First day of November One thousand eight hundred and Thirty-four, and which will become due on the First day of November One thousand eight hundred and Thirty-five ;

Lords of Treasury may suspend proceedings for recovery of Instalments under recited Acts.

Be it therefore Enacted, by The KING's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for the Lords Commissioners of His Majesty's Treasury, if it shall seem to them expedient so to do, to delay or suspend the institution or prosecution of any Proceedings for recovery or enforcing payment of any such Instalments as aforesaid, until after the *Sixth* day of *April One thousand eight hundred and Thirty-six.*

Ireland.)

A

B I L L

To suspend Proceedings for recovering Payment of certain Instalments of the Money advanced under the Acts for establishing Tithe Compositions in Ireland.

(Prepared and brought in by
Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,*
29 *August* 1835.

1835

27 *July* 1835.

A

B I L L

For continuing, for a limited time, the several Acts for regulating the Turnpike Roads in Great Britain, which will expire with the next Session of Parliament.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is expedient that the several Acts for making, amending and repairing the Turnpike Roads in Great Britain, which will expire with the next Session of Parliament, should be continued for a limited time; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all and every Act and Acts of Parliament for making, amending and repairing any Turnpike Roads in Great Britain, which will expire with the next Session of Parliament, shall be and the same is and are hereby continued until the *First* day of *June One thousand eight hundred and Thirty-seven*, or if Parliament shall then be sitting, until the End of the then Session of Parliament. Preamble.

1. Continuation of Acts.

And be it further Enacted, That nothing in this Act contained shall extend, or be construed to extend, to an Act passed in the fifty-second year of his late Majesty King GEORGE the Third, intituled, "An Act for widening and improving the Street or Road leading from Tower Hill to the Street called Upper East Smithfield, in the parish of Saint Botolph-without-Aldgate, in the County of Middlesex;" nor to another Act passed in the fifty-third year of his said late Majesty, intituled, "An Act for enlarging the Powers of an Act of his present Majesty for widening and improving Upper East Smithfield,

2. Nothing contained in this Act to extend to the Acts 52 Geo. 3. c. 149; 53 G. 3. c. 72;

field, in the Parish of Saint Botolph-without-Aldgate, in the County of Middlesex;" nor to another Act passed in the fifty-sixth year of the reign of his said late Majesty, intituled, " An Act for altering, amending and explaining two Acts of his present Majesty's reign, for widening and improving the Street leading from Tower Hill to the Street called Upper East Smithfield, in the County of Middlesex."

or 56 G. 3. c. 45.

6 WILL. IV.—Sess. 1835.

A

B I L L

For continuing, for a limited time, the several Acts for regulating the Turnpike Roads in Great Britain, which will expire with the next Session of Parliament.

(Prepared and brought in by Mr. Fox Maule and Mr. Chancellor of the Exchequer.)

Ordered by The House of Commons, *to be Printed,*
27 July 1835.

436.

337

7 *August* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For continuing, for a limited time, the several Acts for regulating the Turnpike Roads in *Great Britain*, which will expire with the next Session of Parliament.

WHEREAS it is expedient that the several Acts for making, amending and repairing the Turnpike Roads in *Great Britain*, which will expire on the First day of June One thousand eight hundred and Thirty-six, or with the next Session of Parliament, should be continued for a limited time; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all and every Act and Acts of Parliament for making, amending and repairing any Turnpike Roads in *Great Britain*, which will expire on the First day of June One thousand eight hundred and Thirty-six, or with the next Session of Parliament, shall be and the same is and are hereby continued until the First day of June One thousand eight hundred and Thirty-seven, or if Parliament shall then be sitting, until the End of the then Session of Parliament.

Preamble.

Continuation of Acts.

6 WILL. IV.—Sess. 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For continuing, for a limited time, the several Acts for regulating the Turnpike Roads in *Great Britain*, which will expire with the next Session of Parliament.

(Prepared and brought in by
Mr. Fox Maule and Mr. Chancellor of the Exchequer.)

Ordered by The House of Commons, *to be Printed,*
7 *August* 1835.

539

27 *July* 1835.

A

B I L L

To authorize the Consolidation of the Trusts of Turnpike Roads in that part of Great Britain called England.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS it is expedient, in order to lessen the expense of the management and maintenance of Turnpike Roads in that part of Great Britain called England, that power should be given to consolidate the Trusts of such Turnpike Roads; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT one of His Majesty's Principal Secretaries of State, His Majesty's Postmaster General for the time being, and the Commissioners of His Majesty's Woods, Forests, Land Revenues, Works, and Buildings for the time being, shall be and they are hereby appointed Commissioners for carrying this Act into execution.

1. Appointment of Commissioners to carry act into execution.

2. Power to appoint additional Commissioners.

And be it further Enacted, That it shall be lawful for the Lord High Treasurer, or the Commissioners of His Majesty's Treasury for the time being, or any *Three* or more of them, by any writing under their hands, to appoint any other Person or Persons, not being more than *Six* in number, to be a Commissioner or Commissioners for carrying this Act into execution; and every Person or Persons who shall be so appointed, is and are hereby vested with the same powers and authorities as if he or they had been named in this present Act, and had been thereby appointed a Commissioner or Commissioners for carrying this Act into execution.

3. Style of Commissioners; who may sit as a Board, with power to summon and examine Witnesses, and call for production of Papers, &c.; or to substitute a Declaration for an Oath.

And be it further Enacted, That the said Commissioners shall be styled "The Commissioners for consolidating the Trusts of Turnpike Roads;" and the said Commissioners, or any Three of them, (one of the Commissioners of His Majesty's Woods, Forests, Land Revenues, Works, and Buildings being present), may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the said Commissioners, acting as such Board, shall be and are hereby empowered, by summons under their hands and seal, to require the attendance of all such Persons as they may think fit to call before them, upon any question or matter connected with or relating to the management and maintenance and the funds of Turnpike Roads in that part of Great Britain called England; and also to make any inquiries, and require any answer, or returns, as to any such question or matter; and also to administer Oaths, and examine all such Persons upon Oath; and to require and enforce the production, upon Oath, of Books, Contracts, Agreements, Accounts, and Writings, or Copies thereof respectively, in anywise relating to any such question or matter; or in lieu of requiring such Oath as aforesaid, the said Commissioners may, if they think fit, require any such Person to make and subscribe a Declaration of the truth of the matters respecting which he shall have been or shall be so examined: Provided always, That no such Person shall be obliged, by any such summons, to go or travel more than *Fifty* Miles from the place of his abode.

4. To have a Common Seal. Orders, &c. purporting to be sealed with such Seal, to be received as Evidence.

And be it further Enacted, That the said Commissioners shall cause to be made a Seal of the said Board, and shall cause to be sealed and stamped therewith all Orders and Regulations made by the said Commissioners in pursuance of this Act; and all such Orders and Regulations, or copies thereof, purporting to be sealed or stamped with the seal of the said Board, shall be received as evidence of the same respectively, without any further proof thereof; and no such Order or Regulation, or copy thereof, shall be valid, or have any force or effect, unless the same shall be so sealed or stamped as aforesaid.

5. Commissioners to record their Proceedings.

And be it further Enacted, That the said Commissioners shall make a record of their proceedings, in which shall be entered, in writing, a reference to every Letter received, from whence, its date, the date of its reception, and the subject to which it relates; and a minute of every Letter written, or Order given, by the said Commissioners, whether in answer to such Letters received or otherwise, with the Date of the same, and a minute of the opinion of each of the members of the Board of Commissioners, in case they should finally differ in opinion upon any Order to be given, or other proceeding of the Board; and such record shall be submitted to one

of

of His Majesty's principal Secretaries of State once in every year, or as often as he shall require the same.

6. Commissioners to make a General Report to the Secretary of State yearly, to be laid before Parliament:

And be it further Enacted, That the said Commissioners shall, *once* in every year, submit to one of the Principal Secretaries of State a general Report of their Proceedings; and every such general Report shall be laid before both Houses of Parliament within *Six* Weeks after the receipt of the same by such Principal Secretary of State, if Parliament be then sitting; or if Parliament be not sitting, then within *Six* Weeks after the next meeting thereof.

7. And to report Proceedings to the Secretary of State when required.

And be it further Enacted, That the said Commissioners shall from time to time, at such times as any one of His Majesty's Principal Secretaries of State shall direct, give to the Principal Secretary of State requiring the same, such nformation respecting their proceedings, or any part thereof, as the said Principal Secretary of State shall require.

8 Power to appoint Surveyor General;

and to remove same.

And be it further Enacted, That the said Commissioners shall, and they are hereby empowered from time to time to appoint such Person as they may think fit to be the Surveyor General for carrying this Act into execution, at such places and in such manner as the said Commissioners may direct, and to remove such Surveyor General at their discretion; and on every vacancy in the said office of Surveyor General, by removalor by death, or otherwise, to appoint, if they see fit, some other Person to the said Office.

9. Commissioners to appoint Officers.

And be it further Enacted, That the said Commissioners may, and they are hereby empowered from time to time to appoint all such Officers as they shall deem necessary for carrying this Act into execution, and from time to time, at the discretion of the said Commissioners, to remove such Officers, or any of them, and to appoint others in their stead: Provided always, That the amount of the remuneration to such Officers, and to the Surveyor General, shall from time to time be regulated by the Lord High Treasurer, or the Commissioners of His Majesty's Treasury, or any *Three* or more of them.

10. Commissioners may delegate Powers to Surveyor General, and revoke them.

And be it further Enacted, That it shall be lawful for the said Commissioners to delegate to their Surveyor General such of the powers and authorities hereby given to the said Commissioners (except the power to unite Turnpike Trusts) as the said Commissioners shall think fit; and the powers and authorities so delegated, and the delegation thereof, shall be notified in such manner, and such powers and authorities shall be exercised at such places for such periods, and under such circumstances, and subject to such regulations, as the said Commissioners shall direct; and the said Commissioners may at any time revoke, recall, alter, or vary all or

any of the powers and authorities which shall be so delegated as aforesaid; and notwithstanding the delegation thereof, may act as if no such delegation had been made; and the said Surveyor General may and is hereby empowered to summon before him such Persons as he may think necessary for the purpose of being examined upon Oath (which Oath such Surveyor General is hereby empowered to administer), upon any question or matter relating to the management and maintenance of the Turnpike Roads, and the Funds thereof, or for the purpose of producing and verifying, upon Oath, any Books, Contracts, Agreements, Accounts, and Writings, or Copies of the same, in anywise relating to such question or matter as such Surveyor General may think fit, but so that no such person shall be required, in obedience to any such summons, to go or travel more than *Fifty* Miles from the place of his abode: Provided nevertheless, That in lieu of requiring such Oath as aforesaid, the said Surveyor General may, if he think fit, require such Person to make and subscribe a Declaration of the truth of the matters respecting which he shall have been or shall be so examined; and all Summonses and Orders made by any such Surveyor General in pursuance or exercise of such delegated powers and authorities, shall be obeyed, performed and carried into effect by all Persons as if such Summons or Order had been the Summons or Order of the said Commissioners; and the breach, non-observance or non-performance thereof shall be punishable in like manner.

Surveyor General may summon Persons, and examine them upon Oath, or a Declaration may be substituted for an Oath.

11. Notification of appointment of Surveyor General to be published in Gazette.

And be it further Enacted, That the appointment of every Surveyor General shall be forthwith published in the London Gazette, and a notification of such appointment shall from time to time be sent under the hands and seals of the said Commissioners to the Clerk of the Peace in every county in England and Wales, who shall and is hereby required, as soon as conveniently may be, to cause the same to be advertised *once* in some Newspaper published or circulated in such county, and such notification as aforesaid shall be kept and preserved by such Clerk of the Peace with the records of such county.

12. Persons giving false Evidence guilty of Perjury;

And be it further Enacted, That if any Person, upon any examination under the authority of this Act, shall wilfully and corruptly give false Evidence, he shall be deemed guilty of *Perjury*; and if any Person shall make or subscribe a false Declaration, he shall, on being convicted thereof, suffer the pains and penalties of Perjury; and if

refusing to attend, &c. guilty of Misdemeanor.

any Person shall wilfully refuse to attend in obedience to any summons of the said Commissioners or the Surveyor General, or to give evidence, or shall wilfully alter, suppress, conceal, destroy or refuse to produce any books, contracts, agreements, accounts and writings, or copies of the same, which may be so required to be produced before

before the said Commissioners or the Surveyor General, every Person so offending shall be deemed guilty of a *Misdemeanor*.

13. Reasonable Expenses of Witnesses to be paid, and by whom.

And be it further Enacted, That it shall be lawful for the said Commissioners, in any case where they see fit, to order and allow such Expenses of Witnesses, and of or attending the production of any Books, Contracts, Agreements, Accounts or Writings, or Copies thereof, to or before the said Commissioners or the Surveyor General, as such Commissioners may deem reasonable to be paid, as follows; (that is to say) out of the Funds of the Turnpike Trust, which in the opinion of the said Commissioners shall be interested or concerned in such attendance or production respectively, in all cases in which such witnesses shall not go or travel more than *Fifty* Miles; and in all other cases the expenses so ordered or allowed shall be deemed as part of the incidental expenses attending the execution of this Act, and be paid accordingly.

14. Turnpike Trusts may be united by Commissioners.

And be it further Enacted, That it shall be lawful for the said Commissioners, by order under their hands and seal, to declare so many Turnpike Trusts as they may think fit to be consolidated and united, and such Turnpike Trusts shall thereupon be deemed a consolidation or union for the purpose of regulating the management and maintenance of the Turnpike Roads on such Trusts, and the funds thereof.

15. Copy of Order for Consolidation to be sent to each Trust, and deposited with Clerk of Peace.

And be it further Enacted, That a Copy of the said Order for the consolidation of such Turnpike Trusts as aforesaid, signed and sealed by the said Commissioners as aforesaid, shall be sent to the Clerk of each Turnpike Trust so consolidated, and also to the Clerk of the Peace of each county, riding, division, district or liberty in which any of the said Trusts may be situate; and the said Clerk of the Peace shall and is hereby required, upon the receipt of such Order, to file the same with the records of such county, riding, division, district or liberty.

16. Power to dissolve, add to, or take from any consolidated Trusts; and thereupon to make such Orders as may be adapted to its altered state.

And be it further Enacted, That it shall be lawful for the said Commissioners from time to time as they may see fit, by order under their hands and seal, to declare any consolidation of Turnpike Trusts to be dissolved, or any Turnpike Trust or Trusts, specifying the same to be separated from or added to any such consolidation, and, as the case may be, such consolidation shall thereupon be dissolved, or such Turnpike Trust or Trusts shall thereupon be separated from or added to such consolidation accordingly; and the said Commissioners shall in every such case frame and make such orders as they may think fit for adapting the constitution, management and Board of Trustees of every such consolidation, from or to which there shall be such separation or addition as aforesaid to the altered

state of the same; and every such consolidation shall, after any such alteration, be constituted, managed and governed as if the same had been originally formed in such altered state; and in case any such consolidation shall be wholly or partially dissolved as aforesaid, then the Turnpike Trusts constituting, or, in case of partial dissolution, separated from any such consolidation, shall thenceforth be subject to be re-united or united with other Turnpike Trusts, or otherwise dealt with, according to the provisions of this Act, as the said Commissioners shall think fit.

17. Constitution and election of Board of Trustees for consolidated Trusts

And be it further Enacted, That where any Turnpike Trusts shall be consolidated and united, by order of the said Commissioners, a Board of Trustees for the management and maintenance of the Turnpike Roads in such Trusts, and the Funds thereof, shall be constituted and elected by and from the persons who, at the time of such consolidation being made, were the Trustees of such Trusts so consolidated; and the said Commissioners shall determine the number of the Trustees to be elected in each consolidation, and also the number of Trustees to be elected for any one or more of such Trusts so consolidated, as well as the mode of election; and such Board of Trustees shall have, use and exercise over each of the Trusts so consolidated and united, the same powers and authorities as the Trustees acting under any local Act or otherwise had over the same previous to such consolidation and union; and in case of the death, refusal to act, or disqualification of any of the Board of Trustees of such consolidated Trusts, it shall be lawful for the surviving or remaining Trustees, from time to time to elect and appoint one other fit Person duly qualified to be a Trustee in the room of every Trustee so dying, refusing to act or becoming disqualified, provided that notice of the time and place of meeting of the Trustees for every such election be given by the Clerk to such consolidated Trusts, by affixing the same in writing upon all the Tollgates or Turnpikes erected upon the said Roads for which they shall act as Trustees; and by inserting such notice in one or more of the Newspapers circulated in that part of the county where such Roads shall pass *Fourteen* Days at least before every such meeting; and every Person who shall be so elected and appointed a Trustee, shall and may act with the surviving and remaining Trustees in the execution of this Act, and of the several powers and authorities vested in the said Board of Trustees, as if he had been elected one of the original Trustees of such Board.

for appointing new Trustees on Vacancies.

Notice to be given before meeting.

18. Trustees of consolidated Trusts not to act except at a Board.

And be it further Enacted, That no Trustee of any such Board as aforesaid shall have power to act in virtue of such office, except as a member and at a meeting of such Board; and no act of any such

such meeting shall be valid, unless Five Members shall be present and concur therein.

19
Commissioners may make Orders for the management, maintenance of Turnpike Roads, &c. when Trusts are consolidated.

And be it further Enacted, That the said Commissioners may and are hereby authorized, under their hands and seals, to make orders and regulations for the management and maintenance of the Turnpike Roads in such consolidated Trusts, and the Funds thereof, and from time to time to suspend, alter, vary, amend or rescind the same, and make any new or other orders and regulations as they from time to time shall think fit; and that all orders and regulations to be from time to time made by the said Commissioners under the authority of this Act, shall be sent by the said Commissioners, under their hands and seals, to the Treasurer and to the Clerk of such consolidated Trusts to which they are intended to apply, and shall be valid and binding, and shall be obeyed as if the same were specifically made and embodied in this Act, subject nevertheless to the said power of the said Commissioners from time to time to rescind, amend, suspend or alter the same.

20.
Power for Commissioners to make Orders, &c. for management of Roads in Turnpike Trusts not consolidated.

And be it further Enacted, That the powers and authorities in this Act contained, as to the making of orders and regulations for the management and maintenance of the Turnpike Roads in a consolidated Trust, and the Funds thereof, shall and may be used and exercised, if the said Commissioners shall think fit, with respect to the Road or Roads in any Trust, although the same may not have been consolidated with any other Turnpike Trust or Trusts.

21.
Commissioners may direct Trustees of consolidated Trusts to appoint Officers, fix their Duties, mode of Appointment and Dismissal, and the Security to be taken,

And be it further Enacted, That it shall be lawful for the said Commissioners, as and when they shall see fit, by order under their hands and seal, to direct the Trustees of any consolidated Trusts to appoint such Officers with such qualifications as the said Commissioners shall think necessary for superintending or assisting in the management and maintenance of the Turnpike Roads in such consolidated Trust, and the Funds thereof, and for the examining, auditing, allowing, or disallowing of the Accounts of such consolidated Trust, and otherwise carrying the provisions of this Act into execution; and the said Commissioners may and they are hereby empowered to define and specify and direct the execution of the respective duties of such Officers, and the places or limits within which the same shall be performed, and direct the mode of the appointment and determine the continuance in office or dismissal of such Officers, and the amount and nature of the security to be given by such of the said Officers as the said Commissioners shall think ought to give security, and, when the said Commissioners may see occasion, to regulate the amount of Salaries payable to such Officers respectively, and the time and mode of payment thereof,

and regulate their Salaries.

thereof, and, when necessary, the proportions in which each of the Turnpike Trusts forming a part of the consolidated Trust shall contribute to such payment; and such Salaries shall be chargeable upon and payabl out of the Funds of such consolidated Trust, or of each of the said Turnpike Trusts respectively, in the manner and proportions fixed by the said Commissioners; and all such payments shall be valid, and shall be allowed in the Accounts of the Trustees or Treasurer paying the same.

22. Power of Mortgagees, &c. to compound.

And be it further Enacted, That it shall and may be lawful to and for the Trustees of any consolidated Trusts, by and with the consent in writing under the hands and seal of the said Commissioners, to compound with any Persons enitled to any sums of Money secured by mortgage, bond or otherwise, under or by virtue of any of the Acts then in force relating to either of the Turnpike Trusts so consolidated, or under or by virtue of the General Turnpike Acts; and if any Person entitled to any such sum of Money shall be an infant, or person of nonsane memory, or when any such sum of Money, by reason of any will or settlement, or otherwise, shall be vested in any executor or administrator, or child not belonging absolutely to any one individual, then and in either of the said cases the guardian or guardians of such infant, or the committee or committees of such person of nonsane memory, or such executor or administrator, or the person entitled to the first life interest, as the case may be, shall be and are hereby authorized to enter into such composition, and to give a legal and valid discharge to the said Trustees for the Money so secured as aforesaid.

23. Commissioners to ascertain Amount of Sums due on credit of Tolls under former Acts, and if necessary to advertize for Particulars of such Claims.

And be it further Enacted, That the Trustees of each consolidated Trust shall, as soon as conveniently may be after they have been elected, cause an Account to be taken of all principal sums of Money secured by way of mortgage, or by means of bonds or otherwise, on the credit of the Tolls or Rates by the several Acts relating to the Trusts so consolidated respectively authorized to be taken or levied, distinguishing the amount due from each such Trust; and if the said Trustees shall deem it necessary for that purpose, shall cause Advertisements to be inserted in The London Gazette, and in *Four* Newspapers published in the county in which the Roads constituting such consolidated Trust may pass, requiring all persons claiming to be entitled to any sum or sums of Money charged by way of mortgage, or by means of bonds or otherwise on the said Tolls so authorized to be collected by the said several Acts, to send in to the said Trustees, or to some person or persons to be appointed by them in that behalf, on or before a day to be named in the said Advertisement, such day being at least *Thirty* Days before the day hereinafter fixed for declaring such option as hereinafter mentioned,

mentioned, and not being sooner than *Three* Months from the date and time of insertion of the first of such Advertisements, the particulars of their respective claims, in order that the same may be examined, and the amount thereof, at the option of such mortgagees or other creditors, either paid to them forthwith, or secured in manner hereafter mentioned, by mortgage of the Tolls to be collected on such consolidated Trust.

24. Persons having security on Tolls, to have their option of being paid off, or of receiving Security under this Act.

And be it further Enacted, That the Persons entitled to any sums of money secured by mortgage bonds, or otherwise, under or by virtue of either of the several Acts relating to the Trusts so consolidated, or of the said General Turnpike Acts on the said Tolls by either of the said several Acts authorized to be taken, shall, with the consent in writing, under the hands and seal of the said Commissioners, have the option either to have the money so secured, together with all interest due thereon, forthwith paid off and discharged, or to receive a composition in full discharge thereof, or to have such mortgages as hereinafter mentioned of the Tolls to be collected on such consolidated Trusts, executed to them by the said Trustees of the Trusts so consolidated, in lieu of their respective securities as aforesaid, and shall declare such option by some writing under their respective hands, to be addressed to the said Commissioners.

25. In cases of Infants, Lunatics or partial Interests, option to be declared by the Guardians, Committees, &c.

And be it further Enacted, That where the Person entitled to any sum of money secured on the said Tolls by either of the several Acts relating to the Trusts so consolidated authorized to be taken, shall be an infant or person of nonsane memory, or where any such sum of money, by reason of any will or settlement, or otherwise, shall not belong absolutely to any one individual, then and in either of the said cases the guardian or guardians of such infant, or the committee or committees of such person of nonsane memory, or the person entitled to the first life-interest in such sum of money, as the case may be, shall be entitled to exercise such option as aforesaid, whether to have the said sum paid off, compounded for or secured as aforesaid.

26. If no option declared, Persons to be considered as electing, not to be paid off.

And be it further Enacted, That in all cases where, from the Person or Persons entitled to any sum of money secured on the said Tolls, by either of the several Acts relating to the Trusts so consolidated authorized to be taken, being absent, or from two or more Persons being so entitled, and not agreeing amongst themselves, or from neglect or any other cause, such option as hereinbefore is given shall not be declared on or before the time fixed in the said Advertisements, the Person or Persons entitled to such sum of money shall be considered to have elected not to have the same paid off,

 but

but to have the same secured by a mortgage of the Tolls of such consolidated Trusts.

27. Trustees to examine the validity of Claims sent in, and to give Information to Creditors desirous of making their option.

And be it further Enacted, That the Trustees of such consolidated Trusts shall cause the validity of all claims which shall be sent in to them in pursuance of the aforesaid provisions, to be inquired into and examined, and the total amount and particulars of such claims to be ascertained, and shall give any information, both as to the amount of such claims and the probable annual amount of the Tolls to be collected on such consolidated Trusts, and the other revenues and the expenses of the said Trustees which may be required by any of the said mortgagees, or other creditors, for the purpose of enabling them to come to a satisfactory determination in making such option as is hereby given them.

28. Trustees may borrow of private Individuals.

And be it further Enacted, That it shall be lawful for the said Trustees of each consolidated Trust, with the consent in writing, under the hands and seal of the said Commissioners, to borrow of any person or persons, or body or bodies politic or corporate, on mortgage (pursuant to the provisions of the said General Turnpike Acts), of the Tolls authorized to be taken by the several Acts relating to the Trusts so consolidated, the whole or any part of the amount which may be required for the payment of or composition for the sum or sums of money secured on the Tolls by either of the said several Acts authorized to be taken, and which the parties entitled thereto shall have declared their option to have paid off forthwith, or compounded for, pursuant to the provisions for that purpose herein contained.

29. Trustees to pay off Creditors desirous of being paid off, and to execute Mortgages to those not desirous of being paid off.

And be it further Enacted, That the said Trustees shall, as soon as conveniently may be, after they have obtained the consent of the said Commissioners as aforesaid, and borrowed such sum of money as aforesaid, pay the persons entitled to any sums secured on the Tolls by the said repealed Acts authorized to be taken, and desirous of having the same paid off forthwith, or compounded for the amount of such principal sums, together with interest thereon, at such rate of interest as they shall respectively bear from the time to which the interest thereon shall have been then already paid up to the time of payment of such principal sum or the amount of such composition, and shall execute to the Persons entitled to any sums secured on the Tolls by either of the several Acts relating to the Trusts so consolidated, authorized to be taken and not desirous of having the same paid off forthwith, or to such Persons as they shall respectively appoint mortgagees of the Tolls authorized to be taken in such Consolidated Trusts, and of the toll-houses, gates, bars, weighing machines and other property necessary for collecting the same, for

securing

securing to the said Persons respectively the principal sums to which they shall respectively be so entitled, with interest thereon, at such rate of interest as they shall respectively bear from the time up to which such interest shall have been paid, such interest to be made payable at the days and times at which it is payable, under and by virtue of the existing mortgages, bonds or other securities, and the mortgages to be executed by the said Trustees as aforesaid, to be either in the form prescribed by the said General Turnpike Acts, or in any other form which to the said Trustees and to the intended mortgagees shall seem more convenient or proper.

30. Such Mortgages and Assignments to be free of Stamp Duty.

And be it further Enacted, That no mortgage to be executed by the said Trustees in manner aforesaid, either as a substitution for or in order to raise money for paying off and discharging any mortgage or other security now existing, and by either of the said Acts relating to any of the Trusts so consolidated authorized to be taken, or any assignment thereof, shall be liable to or charged with the payment of any Stamp Duty; any thing in any Acts of Parliament to the contrary thereof in anywise notwithstanding.

31. Provision for Payment of Money to which Infants may be entitled.

And be it further Enacted, That where any infant or person of nonsane memory shall be entitled to any sum of money to be payable under the provisions hereinbefore contained, or where the mortgage, bond or other security in respect of which sum shall be payable, shall, by any deed, will or otherwise, have been settled, limited or given to or upon or for the benefit of persons not taking absolute interests therein, the same shall be paid to the guardian or guardians of such infant, the committee or committees of such person of nonsane memory, or the trustees in whom such mortgage, bond or other security shall be vested, as the case may be; and the receipts of such guardians, committees and trustees shall be sufficient discharges to the said Commissioners, and shall exonerate them from being liable for the misapplication or nonapplication of the sums mentioned in such receipts; and in the instance last mentioned, if there shall be no trustee in whom such mortgage, bond or other security shall be vested, the sums of money shall be paid into the Bank of England, in the name and with the privity of the Accountant General of the Court of Exchequer, to be placed to his account "ex-parte the Trustees of the consolidated Turnpike Trust," pursuant to the method prescribed by an Act made in the first year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the better securing the Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the appointment of an Accountant General and two Masters of the said Court, and for other purposes, and the general Orders of the said Court," and without fee or reward, and shall, when so paid in, be invested by the said Accountant General in his

his name in the purchase of Three Pounds per Centum Consolidated or Three Pounds per Centum per Annum Reduced Bank Annuities; and the said Consolidated or Reduced Bank Annuities, and the dividends thereof, shall be transferred and paid respectively by order of the said Court, such order to be made upon petition, to be presented in a summary way, to the persons who would have been respectively entitled to the principal and interest of the money in discharge of which the same shall have been so paid in case this Act had not been made, and in the like manner in which such persons would have been respectively entitled to the principal and interest of the said money; and the Receipt of the Cashier or Cashiers of the Bank (which Receipt the said Cashier or Cashiers is and are hereby required to give) shall be a sufficient discharge to the said Commissioners for the sum so paid in.

32. Mortgages to be made as aforesaid to be entitled to no priority one over the other;

And be it further Enacted, That all the several mortgages to be executed in manner aforesaid by the said Trustees, either as a substitution for or in order to raise money for paying off and discharging any sum secured by mortgage, bond or other security on the Tolls by any of the Acts relating to either of the Trusts so consolidated authorized to be taken, shall be considered as standing as pari passu, and as entitled to no priority the one over the other; but the several mortgagees shall be tenants in common of the said Tolls authorized to be taken on such consolidated Trusts, and of the toll-houses, gates, bars, weighing machines, and other property comprised in their respective mortgages, and their several shares therein shall be proportionate to the amount of the sums secured by their respective mortgages: Provided always, That all the said mortgages to be executed in manner aforesaid by the said Trustees, either as a substitution for or in order to raise money for paying off or discharging any sum secured by mortgage, bond or other security on the Tolls by any of the Acts relating to either of the Trusts so consolidated authorized to be taken, shall have a priority over every subsequent mortgage which may hereafter be executed by the said Trustees, under the powers of this Act or of the said General Turnpike Acts, and all such subsequent mortagages shall have priority the one over the other of them, according to their respective dates and times of execution (unless provision to the contrary shall be expressly inserted in any such mortgage, declaring that it shall not be entitled to priority over any future mortgage or mortgages, and that either generally or specifying the amount of such future mortgage or mortgages); and all such subsequent mortgages shall be either in the form prescribed by the said General Turnpike Acts, or in any other form which the said Trustees may think more suitable; any thing in the said General Turnpike Acts to the contrary notwithstanding.

but to have priority over subsequent Mortgages, and subsequent Mortgages to have priority over one another, unless provision is made to the contrary.

And

33. Application of Tolls and other Monies.

And be it further Enacted, That all and every Tolls by the several Acts relating to the Trusts so consolidated, and by the said General Turnpike Acts authorized to be taken on the said Roads of each of the said Trusts so consolidated, shall be vested in the said Trustees of such consolidated Trusts; and the sums arising therefrom, and from any Trust Estates, and all other sums which by virtue of the several Acts relating to the Trusts so consolidated, or of the said General Turnpike Acts, shall be payable to the said Trustees of such consolidated Trust, shall be applied for the purposes and in the manner following; (that is to say) first, in paying the Annuities and the Interest of the several Sums by either of the several Acts relating to the Trusts so consolidated, or by this Act charged or directed to be charged upon or made payable out of the said Tolls, Rates and Assessments, and all other Monies; secondly, in amending, widening, lighting, watching, paving, draining, maintaining and repairing and keeping in repair, according to the provisions of the several Acts relating to the Trusts so consolidated, and of this Act, and of the said General Turnpike Acts, the said Roads on each of the said Trusts so consolidated, and in erecting, removing, altering and repairing Tollgates, Tollhouses, Weighing Machines and other erections necessary for the due collecting of the Tolls so authorized to be taken, and for other the purposes in each of the said several Acts and the General Turnpike Acts contained; and, lastly, in paying off the principal sums by this Act charged, or directed to be charged, upon, or which may hereafter, under the powers of this Act, or of the said General Turnpike Acts, be borrowed upon the security of the said Tolls of such consolidated Trust.

34. On consolidation of Trusts, provisions of local Acts relating to each Trust and General Turnpike Acts, to be applicable to each Trust, except, &c.

And be it further Enacted, That on the consolidation of any Turnpike Trusts, for the purpose of regulating the management and maintenance of the Turnpike Roads on such Trusts, and the Funds thereof, all the powers, provisions and authorities in any local Act or Acts contained, relating to either of the Trusts so consolidated, as well as the powers, provisions and authorities of the General Turnpike Acts, shall continue to be applicable to such Trusts, except so far as the same may be altered by this Act.

35. Estimate of projected Works, &c. exceeding *l.* to be submitted to Commissioners, and not carried into effect without their consent.

And be it further Enacted, That from and after the *passing of this Act* it shall not be lawful for the Trustees of any Turnpike Trust, or consolidated Trust, to expend on any work or improvement more than the sum of *One hundred* Pounds, without first submitting to the said Commissioners the particulars of such projected work or improvement, and obtaining their consent thereto.

36. Securing Rights, &c. of Creditors, &c

And be it further Enacted, That no consolidation or union of Turnpike Trusts, or dissolution or alteration thereof, or addition thereto,

shall in any manner (except as aforesaid), prejudice, vary or affect the rights or interests of any creditor or mortgagee, or other party, under any of the Acts relating to either of the Trusts so consolidated, or in the event of a dissolution or alteration thereof, or addition thereto, unless such creditor or mortgagee or other party shall consent, in writing, to such dissolution, alteration or addition.

37. To continue until the several Acts for regulating Turnpike Roads in Great Britain, which will expire with the present or next Session of Parliament.

And be it further Enacted, That all and every Act and Acts for making, amending and repairing any Turnpike Roads in Great Britain which will expire with the present Session of Parliament, or at any time during the space of Ten Years after the *passing of this Act*, shall be and the same is and are hereby continued until the *First* day of *June One thousand eight hundred and Forty-six*, or if Parliament shall then be sitting, until the *end* of the then Session of Parliament.

38. Local Acts not to be amended without consent of Commissioners.

And be it further Enacted, That no local Turnpike Act shall be altered, or amended unless with the consent, in writing, under the hands and seal of the said Commissioners.

39. No Order or Regulation of Commissioners to be removed by Certiorari.

And be it further Enacted, That no order or regulation made by the said Commissioners under the authority of this Act, shall be removed or removable by certiorari, or any other writ or process whatsoever, into any of His Majesty's Courts of Record at Westminster.

40. Act may be amended, &c. this Session.

And be it further Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed during the present Session of Parliament.

41. Public Act.

And be it further Enacted, That this Act shall be deemed a Public Act, and shall extend to that part of Great Britain called England, and be judicially taken notice of as such, by all Judges, Justices and other persons whatsoever, without the same being specially shown or pleaded.

6 WILL. IV.—Sess. 1835.

A

B I L L

To authorize the Consolidation of the Trusts of Turnpike Roads in that part of Great Britain called England.

(Prepared and brought in by
Mr. Fox Maule and Mr. Francis Baring.)

Ordered, by The House of Commons, *to be Printed*,
27 *July* 1835.

555

27 *May* 1835.

A

B I L L

To amend an Act of the Fifty-eighth Year of King GEORGE the Third, for regulating Parish Vestries, in so far as to afford to *Westminster* and certain Parishes within the Bills of Mortality, in the Counties of *Middlesex* and *Surrey*, an Exemption which is extended in the said Act to *London* and *Southwark*.

WHEREAS by an Act passed in the fifty-eighth year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for the Regulation of Parish Vestries," it is provided and enacted, that nothing in the said Act contained shall extend to any Parish within the City of *London*, or to any Parish in the Borough of *Southwark*: Preamble.

And whereas by the said Act it is enacted, That in all such Vestries every Inhabitant present, who shall by the last Rate which shall have been made for the Relief of the Poor, have been assessed and charged upon or in respect of any annual rent, profit or value not amounting to Fifty Pounds, shall have and be entitled to give One Vote, and no more; and every Inhabitant there present, who shall in such last Rate have been assessed or charged upon or in respect of any annual rent or rents, profit or value, amounting to Fifty Pounds or upwards (whether in one or more than one sum or charge) shall have and be entitled to give One Vote for every Twenty-five Pounds of annual rent, profit and value upon or in respect of which he shall have been assessed or charged in such last Rate, so nevertheless that no Inhabitant shall be entitled to give more than Six Votes; and in cases where two or more of the Inhabitants present shall be jointly rated, each of them shall be entitled to vote according to the proportion and amount which shall be borne by him of the joint charge, and where one only of the Persons jointly rated shall attend, he shall be entitled to vote according to and in respect of the whole of the joint charge:

And whereas it is expedient to limit the operation of the said last-recited provision of the said Act in so far as regards the City of *Westminster* and Liberties thereof; and as regards the several other Parishes within the Bills of Mortality in the Counties of *Middlesex* and *Surrey:*

58 Geo. 3. c. 69, not to extend to City of Westminster, or Parishes within the Bills of Mortality.

Be it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT nothing in the said recited provision of the said Act shall extend, or be deemed, taken or construed to extend, to any Parish within the City of *Westminster* and the Liberty of the said City, or to any Parish within the Bills of Mortality in the Counties of *Middlesex* and *Surrey*; but that the said City and Liberty, and the several Parishes thereof respectively, and the said other Parishes within the Bills of Mortality in the Counties of *Middlesex* and *Surrey*, and each of them respectively, shall to all intents and purposes be exempted from the operation of the said recited provision, as fully and effectually to all intents and purposes whatsoever, as if the said City of *Westminster* and the several Parishes thereof, and in the Liberty of the said City, and the said several other Parishes within the Bills of Mortality in the Counties of *Middlesex* and *Surrey*, had been specially excepted in and by the said Act from the effect and operation of the said Act so far as regards the said recited provision.

5 WILL. IV.—Sess. 1835.

A

B I L L

To amend an Act of the Fifty-eighth Year of King GEORGE the Third, for regulating Parish Vestries, in so far as to afford to *Westminster* and certain Parishes within the Bills of Mortality, in the Counties of *Middlesex* and *Surrey*, an Exemption which is extended in the said Act to *London* and *Southwark*.

(Prepared and brought in by Colonel Evans and Sir Francis Burdett.)

Ordered, by The House of Commons, *to be Printed,* 27 *May* 1835.

22 *June* 1835.

A

B I L L

For uniting King's College and University of Old Aberdeen, and Marischal College and University of Aberdeen into One University and College.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS King's College and University of Old Aberdeen, and Marischal College and University in Aberdeen, are at the distance of only about a mile from each other: AND whereas in the said Colleges and Universities there are certain Professorships which for the most part have been Sinecures, certain other Professorships which furnish instruction in the same branches of Literature or Science in each College and University, and certain other Professorships which furnish instruction in other branches of Literature or Science in the one College and University, and not in the other College and University, while both Universities are deficient in other Professorships, which are requisite towards a course of liberal Education: AND whereas the endowments and other emoluments of certain Professorships in the said two Colleges and Universities are inadequate for the support of the Professors: AND whereas the said two Colleges and Universities were, by charter of King CHARLES the First, dated the fifteenth day of January One thousand six hundred and forty-two, united and erected into one University, to be called, "King Charles' University of Aberdeen:" AND whereas such union did not prove effectual, although thereafter and both before and since the date of the Union of the Kingdoms of England and Scotland, a University in Aberdeen was recognised in royal and public grants as containing therein the said King's College and the said Marischal College: AND whereas his late Majesty King GEORGE the Fourth, by Commissions, dated respectively the twenty-third day of July and the twenty-eighth day

Preamble.

of September One thousand eight hundred and twenty-six, in the seventh year of his reign, appointed certain persons therein named to be Commissioners for visiting the Universities and Colleges in Scotland: AND whereas His present Majesty King WILLIAM the Fourth, by Commission, bearing date the twelfth day of October One thousand eight hundred and thirty, in the first year of His reign, approved of the object of the said appointment, and appointed certain persons therein named to be Commissioners for the purposes aforesaid: AND whereas the said Royal Commissioners, in a Report addressed to His Majesty, and laid before The Commons' House of Parliament, and by that House, on the seventh day of October One thousand eight hundred and thirty-one, ordered to be printed, express a decided opinion that it is expedient that an union of the said King's College and University, and the said Marischal College and University, into one College and University should take place: AND whereas the said Royal Commissioners have recommended various improvements in the constitution of the Universities in Scotland: AND whereas the union of the said two Colleges and Universities, under proper laws and regulations for the regular government thereof, would tend to promote the cultivation and diffusion of Religion, Morality, Science and Literature, among His Majesty's subjects;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *Thirtieth* day of *September*, which shall be in the year of our Lord *One thousand eight hundred and Thirty-five*, the said King's College and University, and the said Marischal College and University, and the Heads, Principals, Professors and Servants now in the said Colleges and Universities, shall be united, incorporated and erected into one College and University, to be at all times thereafter known by and styled "THE UNITED UNIVERSITY OF ABERDEEN."

1. King's College and University, and Marischal College and University constituted "The United University of Aberdeen."

2. Whatever at present pertains to the two Colleges, hereafter to belong to the United University.

And be it Enacted, That the present Professors of the said King's College and University, and of the said Marischal College and University, shall be Professors of the said united Colleges within the said United University, and shall be succeeded in the United University by Professors of the said University, in manner hereinafter provided; and all and sundry the lands, tenements, tacks, feu duties, annual rents, houses, glebes and other heritages; as well as all and sundry debts, heritable or moveable; sums of money, principal and interest and penalties; and all grants, public or private; Libraries, Museums, and whole other property, chattels, estate and effects, heritable and moveable, or real and personal, of whatever nature or denomination, and wherever situated, and the whole powers,

powers, rights, privileges and immunities whatsoever, now due or belonging, or which shall happen to pertain and belong or be due and owing to the said two Colleges and Universities, or either of them, or to any member thereof, or to any Procurator, Master of Mortifications, Factor or other person whatsoever in trust for the use and behoof of the said two Colleges and Universities, or either of them, or for any other purpose therein or therewith connected, shall, from and after the said *Thirtieth* day of *September One thousand eight hundred and Thirty-five*, belong to the said United University, and be fully and effectually and to all intents and purposes vested in the members of the Rectorial Court thereof, as hereinafter constituted, in trust for the use, benefit and behoof of the United University and College, for the purposes thereof or therewith connected; and the conveyance and vesting as aforesaid of the said whole property, chattels, estate and effects, and of the said powers, rights, privileges and immunities, shall require no other deed or instrument than this present Act; and this Act alone shall operate as effectually as if every matter intended to be hereby conveyed had been herein enumerated and specially described.

3. Chief Officers.

And be it Enacted, That the chief Officers of the United University shall be the Chancellor, the Rector and the Dean; and the bodies in the said United University who shall have the power and authority of executing and managing the affairs thereof, and who shall have authority therein in manner after provided, shall be the Rectorial Court, the Senate, the Faculties and the Convocation.

4. Chancellor to be elected by the Senate.

And be it Enacted, That the Chancellor of the United University shall be elected for life by the Senate thereof, constituted as hereinafter enacted, on a day to be fixed by the said Senate, at least *Three* Months previously, and to be intimated by the Principal of the United University forthwith to the electors absent, and again to all the electors between *Two* and *Four* Weeks previous to the election; and upon a vacancy in the office of Chancellor, an election thereto shall take place within *Nine* Months, and the installation of the succeeding Chancellor within *Twelve* Months after the occurrence of such vacancy: Provided always, That if any Chancellor elect shall fail to be installed within the said period of *Twelve* Months, he shall ipso facto be held to have resigned at the termination of the said period of *Twelve* Months, and another Chancellor shall be elected in his stead.

5. Rector statedly elected by the Principal, Professors, Graduates and Students.

And be it Enacted, That the Rector of the United University shall be elected by the Principal, Professors, Lecturers, Monitors, Graduates and matriculated Students in the United University, as well as by the surviving Graduates of King's College and University

sity of Old Aberdeen, and Marischal College and University in Aberdeen, between the hours of *Twelve* noon and *Six* afternoon; and the first election shall take place on the *first Tuesday* of *March* in the year *One thousand eight hundred and Thirty-six*, and the next stated election on the *first Tuesday* of *January One thousand eight hundred and Thirty-nine*, and every stated election thereafter on the *first Tuesday* of *January* in every *third* year; and the Principal shall, between *Two* and *Four* Weeks previous to such meeting, advertise the time thereof, and the place where it is to be held, in *Two* of the Aberdeen Newspapers, and also by written or printed intimation thereof, to be affixed on the College Gates.

6. Who to preside at the election of the Rector.

And be it Enacted, That at every meeting so convened, the Principal shall preside, and in his absence, the Sub-Principal, or other Professor, in the same order as hereinafter prescribed in the case of meetings of the Senate; and the election of the Rector shall be determined by a majority of the electors present; the President, in the event of an equality of votes, having the casting vote, in addition to his own deliberative vote.

7. Students to give regular attendance, and Graduates to be enrolled, in order to vote.

And be it Enacted, That at any election of a Rector, no Student shall be allowed to vote unless he shall have been attending one class at least of the United University with regularity during the session current at the time of the election; and no Graduate shall be allowed to vote, unless at least a *Week* previous to his first voting as a Graduate he shall have paid the sum of *Five* Shillings towards the funds of the United University, and have had his name enrolled as an elector in a book to be kept by the Senate.

8. Rector, when to be inducted.

And be it Enacted, That the installation of the Rector shall take place within *Three* Months after his election; and if any Rector elect shall fail to be installed within that period, he shall ipso facto be held to have resigned.

9. Occasional election of Rector on death or resignation.

And be it Enacted, That in the event of a vacancy, by resignation or death, in the office of Rector, another Rector shall be elected to remain in office until the next stated election to the said office; and in the case of such resignation or death coming to the knowledge of the Principal or Senate during any winter session, and before the last *Three* Weeks thereof, the election of a new Rector shall take place during such winter session; but in case of any such vacancy occurring at any other time, and more than *Eight* Months previous to the next stated election, a new election shall take place during the *first Two* Months of the winter session next following, in either case on a day to be fixed by the Senate, and between the hours of *Twelve* noon and *Six* afternoon, the day,

hour

hour and place being by the Principal publicly advertised and intimated as in the case of the election of the Rector, as hereinbefore provided: Provided always, That a Rector having resigned his office, shall not again be eligible thereto.

10.
Rector's obligation by acceptance of office.

And be it Enacted, That the Rector, by acceptance of the office, shall be held to undertake the personal performance of the duties thereof, and more especially to be present at the stated annual meeting of the Rectorial Court, to take place as hereinafter provided.

11.
Dean elected statedly by the Principal and Professors.

And be it Enacted, That the Dean of the United University shall be elected for *Three* Years by the Principal and Professors on the *first Tuesday* after the stated election of the Rector, between the hours of *Twelve* noon and *Six* afternoon; intimation being given by the Principal to the electors as aforesaid, and the Principal shall preside at the said election, and in his absence the Sub-Principal, or other Professor, in the order hereinafter provided in the case of meetings of the Senate; and the election of the Dean shall be determined by a majority of the electors present, the President, in the event of an equality of votes, having the casting vote, in addition to his own deliberative vote; and the installation of the Dean shall take place within *Three* Months after his election: Provided always, That if any Dean elect shall fail to be installed within that period, he shall ipso facto be held to have resigned.

12.
Occasional Election of a Dean, on death or resignation.

And be it Enacted, That in the event of a vacancy in the office of Dean, by resignation or death, coming to the knowledge of the Principal or Senate more than *Six* Months prior to the next following stated election to the said office, another Dean, to remain in office till the said stated election, shall be elected within *Six* Months after such resignation or death has come to the knowledge of the Principal or the Senate, at a place and on a day and at an hour to be fixed by the Senate, such time and place to be forthwith intimated by the Principal to the electors absent, and again to all the electors between *Two* and *Four* Weeks previous to the election, in manner aforesaid: Provided always, That a Dean having resigned his office, shall not again be eligible thereto.

13.
Restriction on the nomination of Candidates as Chancellor, Rector or Dean.

And be it Enacted, That at any election of a Chancellor, Rector or Dean, no nomination by moving and seconding any person as a Candidate shall be competent or take place, unless the mover or seconder shall have ascertained and shall assure the meeting that the person proposed will, if elected, accept of office.

14. Chancellor, Rector and Dean to be different Persons.

And be it Enacted, That the offices of Chancellor, Rector and Dean shall each be held by a different Person; and none of these offices shall be held by a Principal or Professor in the United University.

15. Rectorial Court, Members thereof.

And be it Enacted, That the Rectorial Court shall consist of the Rector, the Dean, and the Principal of the United University, the Provost of Aberdeen, and *Three* members, to be nominated from time to time by the Crown, by nomination or appointment under the hand of His Majesty's Secretary of State for the Home Department for the time being, of which *Three* members, *Two* at least shall have domiciles in the town or county of Aberdeen, or in the county of Kincardine: Provided always, That if the Provost of Aberdeen be Rector or Dean, then the eldest Bailie for the time being shall, in place of the Provost, be a member of the Rectorial Court; and every period of appointment of the *Three* members of the Rectorial Court, nominated by the Crown, shall terminate on the next following stated election of the Rector, except any such appointment made before the first stated election of the Rector under this Act; and any such appointment so made shall terminate on the *Thirty-first* day of *December One thousand eight hundred and Thirty-eight.*

16. Quorum.

And be it Enacted, That *Four* shall be a quorum of the Rectorial Court, the Rector, or the Dean or the Principal being always one of such quorum, and that the Rectorial Court shall at all times have power to adjourn.

17. Rector to preside with casting Vote.

And be it Enacted, That the Rector shall preside in the Rectorial Court, and shall have a deliberative and a casting Vote; and in his absence the Dean shall preside; and in the absence of the Rector and the Dean, the Principal shall preside, the Dean or Principal so presiding having only a deliberative Vote; but in the event of an equality of Votes in the absence of the Rector, the consideration of the matter before the Rectorial Court shall be adjourned to a day to be fixed by the said Court, whereof the presiding Dean or Principal shall give especial notice to the Rector and the other members of the Court absent (if any be absent), upon the adjournment taking place; and if on such day, on the consideration of such matter being resumed, an equality of Votes shall again occur in the absence of the Rector, the Dean or Principal then presiding shall have a casting Vote, in addition to his deliberative Vote.

Casting Vote in his absence.

18. Minutes of the Rectorial Court to be kept.

And be it Enacted, That the regular Minutes of the Proceedings of the Court shall be taken and preserved by a Secretary, to be appointed

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appointed by the Court; and all such Minutes shall be subscribed by the President of the Meeting.

19. Rector of himself no power.

And be it Enacted, That the Rector shall have no power to pronounce any judgment or deliverance in matters relating to the United University, except the judgments and deliverances of the Court, constituted as hereinbefore enacted.

20. Stated annual Meeting of the Rectorial Court.

And be it Enacted, That a Rectorial Court shall be held statedly *once* a year, in the month of *April*, on a day and at an hour to be fixed by the Rector, or Rector elect, on application to him by the Principal, and Notice of the day and hour so fixed shall be given by the Principal, in the manner hereinbefore directed in relation to the meeting for choosing the Rector.

21. Business of the stated Annual Meeting of the Rectorial Court.

And be it Enacted, That at the said stated annual Meeting of the Rectorial Court, the Accounts of the United University and College for the year ending at the term of *Michaelmas* preceding, shall be examined and audited, and, if approved of by the Court, shall be docqueted and settled by the members so approving, and a general and conveniently classified statement of such Accounts, showing the receipt and expenditure, as well as a Stock Account, comprising a view of the Property possessed by the United University and College, and of the Income thence arising, and of all burthens thereupon, shall thereafter be printed without delay; and at the said annual Meeting a Report of the state of the United University during the preceding year, embracing a statement of the number of Students attending the several Classes, a list of the Graduates for the year, and of such Students as have gained Prizes, and an account of what improvements have been made in the United University, accompanied with whatever observations the Court shall deem called for or proper, shall also be prepared, and shall thereafter be printed without delay; and a printed Copy of such statement of Accounts, and of such Report, shall be sent to the Chancellor, to each of the Professors, and to each member of the Town Council of Aberdeen; and both documents shall further be made public in such other manner as the Rectorial Court shall direct; and at the said stated annual Meeting of the Rectorial Court, an account shall be laid before the Meeting of the Salaries payable under the enactments, conditions and restrictions of this Act, for the current year, dating from the said term of *Michaelmas*; and the said Court shall give authority to pay the same, or such part thereof as shall be due, under the enactments, provisions and restrictions aforesaid: Provided always, That at the said annual Meeting any other matter competent to the said Court may be taken into consideration and decided.

Accounts and Annual Report to be published.

22.
Other meeting of the Rectorial Court.

And be it Enacted, That in the event of a vacancy in the office of Rector at the time of the said stated annual Meeting of the Rectorial Court, an additional Meeting of the said Court shall be held immediately after the next following installation of a Rector.

23.
Special Meetings of the Rectorial Court, and how summoned.

And be it Enacted, That the Chancellor or the Rector, or the Dean or the Principal, shall at all times have power to summon a special Meeting of the Rectorial Court, by causing notice in writing to be given to the several members of the Court, *Forty-eight* Hours previous to such Meeting.

24.
Property of the United University vested in the Rectorial Court.

And be it Enacted, That the Rectorial Court shall have power to acquire and hold in the name of the members thereof all kinds of property and effects; and the whole management, administration and disposal of the property and revenue now belonging or which shall belong to the United University and College, or to one or more members of the United University or College, in trust for the said Universities or Colleges hereby united, or either of them, shall, as aforesaid, be vested exclusively in the Rectorial Court, in trust for University purposes exclusively, and shall transmit to their successors in office, without service, sasine, confirmation, or other form known in law; and the said Rectorial Court shall have power to effect sales, to grant conveyances, charters or other deeds, and to grant leases for any period not exceeding *Nineteen* Years, of any subject belonging to the United University, including such part of the College Buildings as may not be required for University purposes; to draw Rents, to appoint a Factor, whose appointment shall never be for a longer period than until the next following stated election of the ector, and generally with all the powers necessary for the management, administration and disposal of property: Provided always, That no feus or other alienations of any of the heritable property belonging to the United University and College shall be valid, unless such feus or other alienations have been effected by public roup or auction, after being advertised in *Two* of the Aberdeen Newspapers, and intimated on the College Gates, between *Two* and *Four* Weeks previous to such public roup or auction.

25.
Rectorial Court to sue and be sued in name of Principal.

And be it Enacted, That the said Rectorial Court shall and may sue and be sued in the name of the Principal.

26.
Common Seal; Custodier thereof.

And be it Enacted, That there shall be a Common Seal of the United University, of which the Principal shall be Custodier; and the Rectorial Court shall have power to make and change the same from time to time as to the said Court shall seem fit.

And

27. Rules and Regulations to be instituted by the Rectorial Court and Bye-laws.

And be it Enacted, That the Rectorial Court shall have the exclusive power to institute general Rules and Regulations for the government of the United University; and so far as is not inconsistent with the enactments of this Act, or repugnant to the laws and statutes of this Realm, to institute Bye-laws to regulate the Senate, the Faculties and the Convocation, the election of the Rector, the induction of Professors, and the admission and admission-examinations of Students and Bursars.

28. Rectorial Court may alter the internal system of the United Universities.

AND whereas it is expedient that the Rectorial Court, constituted as hereinbefore enacted, should be intrusted with the regulation of the internal system of the United University, and the alteration and modification of the details thereof, as from time to time experience may show to be necessary; BE it therefore Enacted, That the said Rectorial Court shall have power to adopt and carry into effect from time to time regulations for the granting of Degrees, for the curricula of study, for the mode of teaching, for the hours and extent of teaching, and for the extent of the sessions, or for otherwise modifying the internal system of the United University, as the Rectorial Court may deem expedient; Provided always, That no such regulations shall be instituted until after the Rectorial Court shall have ascertained and recorded the opinion of the Senate thereupon; and provided further, that after the session commencing in the year *One thousand eight hundred and Thirty-nine*, the Rectorial Court shall have no power to permit in the United University a shorter Session than *Five* Months for the Faculty of Theology and than *Six* Months for the Faculties of Medicine and Arts.

Shortest Session to be allowed after 1839-40.

29. Rectorial Court to fix Class and Graduation Fees; under limitations.

And be it Enacted, That the Rectorial Court shall alone have power to fix and regulate, from time to time, the Fees payable by the Students and Bursars to the several Professors and Lecturers in the United University, and also the Fees for Graduation, and to dispose of the said Graduation Fees for University purposes, as part of the general funds of the United University: Provided always, That the Rectorial Court, up to the year *One thousand eight hundred and Fifty*, shall have no power to sanction the exaction, by any Professor hereafter to be appointed in the United University, of a fee for one class exceeding *Fifty* Shillings, from any Bursar or other Student for any one Session: Provided further, That for each full and complete month any such Professor shall be authorized by the Rectorial Court to lecture or teach, and shall so lecture or teach in his proper department, in addition to the number of months to which the session shall at least extend, as hereinbefore set forth, the said Rectorial Court shall have power, in addition to the said sum of *Fifty* Shillings, to allow or to sanction the exaction by every such Professor

fessor of a further sum not exceeding the sum of *Ten* Shillings for and from each Bursar or other Student attending a regular class: And provided also, That the limitations herein made on the power of the Rectorial Court, with regard to the fixing or sanctioning the exaction of fees, shall not be held to apply to any class in which any Professor of Science in the United University is giving a course of practical instructions in operations or experiment, or manipulations or dissections, in the proper department of such Professor, and that the Rectorial Court shall have power, notwithstanding the said limitations, to allow or sanction the exaction from each Bursar or other Student attending a class of any Professor in the United University, who shall illustrate his course by experiments or other demonstrations, of such sum as to the said Court shall seem fit, for the expense of such illustrations.

30. Rectorial Court to make Regulations for Libraries and Museums.

And be it Enacted, That the Rectorial Court shall have power to institute and to review Regulations for the Libraries and for the Museums, including all collections of specimens, models and apparatus belonging to the United University.

31. Whose Representations to be received by the Rectorial Court.

And be it Enacted, That the Rectorial Court shall have power to receive, dispose of and decide upon all representations from the Senate, Faculties, Professors, Lecturers, Monitors, Graduates or Students in the United University, or from the Rectorial Court or Senate of any other University; and to rectify any abuses within the said United University to which the attention of the Court may be so called.

32. Rectorial Court may take away Degrees.

And be it Enacted, That upon petition from any Faculty of the United University, the Rectorial Court shall have power to deprive any Graduate of the United University, or of King's College and University, or of Marischal College and University, of his Degree in such Faculty, for immoral or other conduct unbecoming a Graduate.

33. Rectorial Court may censure a Professor, or suspend him for a year.

And be it Enacted, That the Rectorial Court shall have power, after due investigation, and after hearing all parties interested, to censure a Professor, or to suspend him from his office, and from the exercise of all privileges, and from the receipt of all emoluments thereunto belonging, for a period not exceeding a *Year*, on account of contumacy, of neglect or violation of duty, or for immoral conduct, and during such suspension the said Court shall have power to appoint a substitute.

34. Rectorial Court may suspend a Professor for more than a Year, and with assent of the Chancellor may depose.

And be it Enacted, That the Rectorial Court shall have the further power, after due inquiry and trial, in which all parties interested shall be duly summoned and fully heard, to suspend a Professor from his office, and from the exercise of all privileges and the receipt of all emoluments

emoluments thereunto belonging, for a longer period than a *Year*; or to deprive him altogether of his office, and of all privileges and emoluments thereto belonging in all time coming, on account of neglect or violation of duty, after repeated admonition, or for grossly immoral conduct: Provided always, That in the case of a Professor so to be deprived of office, the sentence of the said Court shall receive the assent of the Chancellor.

35. Rectorial Court may cite Parties and Witnesses.

And be it Enacted, That the Rectorial Court shall, in all trials and investigations of complaints which may come before them in virtue of the provisions in this Act contained, have power to cite parties before them, and witnesses to give evidence, upon oath or otherwise, regarding the subject-matter of such trials or investigations; and all the meetings of the Rectorial Court, when sitting in a judicial capacity, shall be open to the Professors, Lecturers, Monitors, Graduates and Students in the said United University, unless, in the opinion of the Court, the peculiar nature of the case shall render such degree of publicity improper.

When an open Court.

36. Principal subject to the Rectorial Court.

Restrictions on the Principal's Vote in the Rectorial Court.

And be it Enacted, That the Rectorial Court, exclusive of the Principal, shall have and exercise the same judicial authority over the Principal as the Rectorial Court shall have over the other Professors; and the Principal shall in no case be entitled to have a voice in the voting away in the Rectorial Court of money, of which he is to receive any part.

37. A Professor having no Class for Two Years, if not infirm, shall be held to have resigned.

And be it Enacted, That if any Professor in the United University shall fail to have and teach a regular Class in his proper department during any *Two* of *Four* successive Years, except when prevented by sickness, bad health, old age, insanity, or other infirmity, certified by *Two* medical practitioners nominated by the Rectorial Court, such Professor shall ipso facto be held to have resigned his Professorship at the end of the *Second* Year of such failure; and the Principal shall advertise the vacancy, and the Rectorial Court shall take steps to fill up the same, as hereinafter provided for in the case of a vacancy in a Professorship: Provided always, That in the event of any Professor in the United University becoming unfit to lecture or teach in consequence of infirmity as aforesaid, the Rectorial Court, having ascertained the inability of such Professor to lecture or teach by the report of *Two* Medical Practitioners nominated by the said Court, shall have power to appoint a competent substitute, and to allot to the substitute appointed such portion of the emoluments belonging to the Professorship as in the circumstances of the case shall seem to the Court equitable: Provided also, That the disabled Professor in such case shall retain of the emoluments of his Professorship not less than the least retiring

but if infirm, Rectorial Court may appoint a substitute.

yearly allowance whereunto he would be entitled in case he were superseded with a right to a retiring allowance, according to the provisions hereinafter contained: Provided further, That in the event of any Professor of the United University hereafter to be appointed therein, having, from insanity or any other infirmity, for *Four* successive Years been unable to lecture or teach one entire session, or in the event of any Professor of the United University hereafter to be appointed, having reached the age of *Sixty-five* Years, the Rectorial Court, with assent of the Chancellor, shall have power to supersede any such Professor, by declaring his Professorship vacant, and taking steps to fill up the same accordingly: Provided nevertheless, That such Professor shall retain and be allowed by the said Court a retiring yearly allowance, to be fixed by the said Court, but not more than a *Twenty-fourth* nor less than a *Thirtieth* part of the sum of all the salaries, exclusive of fees, received by such Professor during all the years, not exceeding *Thirty*, wherein the said Professor has, for a session each year, and personally never less than *Two-thirds* of an entire session, lectured or taught as Professor in the United University, or in King's College or Marischal College; and in the case of such active service having exceeded *Thirty* Years, such *Thirty* Years of service as have been at the highest rates of salary shall be the years according to which such retiring allowance shall be computed: Provided further, That although the Rectorial Court shall decline to supersede a Professor of the United University hereafter to be appointed, who, from insanity or any other infirmity, has for *Four* successive Years been unable to lecture or teach one entire Session, or who has reached the age of *Sixty-five* Years, the said Court shall notwithstanding have power to accept from such Professor his resignation, and to allow him a retiring yearly allowance, to be fixed by the said Court, not exceeding the smallest retiring allowance to which such Professor would be entitled, were he to be superseded by the Rectorial Court.

And if disabled for Four successive Years, or if Sixty-five years of age, may, with assent of the Chancellor, be superseded by the Rectorial Court upon a retiring Allowance;

or may have resignation accepted, with smaller retiring allowance.

38.

A retired Professor may be Emeritus.

And be it Enacted, That the Rectorial Court shall have power to give to a retired Professor the title of Emeritus Professor, with or without a seat and a voice in the Senate.

39.

Visitors of the United Universities.

And be it Enacted, That the Chancellor, and all the members of the Rectorial Court, shall ex officio be Visitors of the United University, and individually and collectively shall be at all times entitled to visit any or every class therein, during the hours of instruction.

40.

Professors and Lecturers to be under the superintendence of the Rectorial Court.

And be it Enacted, That the Rectorial Court shall have the superintendence of all Professors and Lecturers within the United University, with power to enjoin on any or every such Professor and

and Lecturer the punctual observance of any regulations enacted in regard to the mode of teaching in the United University, and the due performance of any other duties imposed on the Professors and Lecturers; and the Rectorial Court shall, if the said Court think fit, instruct the Principal to see that such injunctions be put in force, and to report thereupon.

41. Visitations of the Classes by the Principal.

And be it Enacted, That the Principal shall visit each class within the United University at least *Twice* every Session, and shall at every stated annual Meeting of the Rectorial Court, give in a written report of such visitations, with whatever observations thereupon he shall judge called for or proper.

42. Principal how to act in case of a delinquent Professor or Lecturer.

And be it Enacted, That the Principal, immediately on coming to the knowledge of any dereliction of duty in a Professor or Lecturer in the United University, shall first privately admonish such Professor or Lecturer; and if admonition prove ineffectual, the Principal shall forthwith summon a special Meeting of the Rectorial Court, for the consideration of such dereliction of duty.

43. Senate how constituted.

And be it Enacted, That the Senate of the United University shall consist of the Rector, the Dean, the Principal and all the Professors in the United University, and a quorum of the Senate shall consist of at least *one-half* thereof; that the Rector shall preside at the meetings of the Senate; and, in the absence of the Rector, the Dean shall preside, and in the absence of the Rector and Dean, the Principal shall preside, and in the absence of these three, the Sub-Principal shall preside, and in the absence of these four, the other Professor or Professors of Divinity, and after the Professors of Divinity, one of the other Professors in the order of seniority, as Professors in the United University, and in King's College and Marischal College; and the President shall not only have his own deliberative vote, but in cases of equality a casting vote also.

44. Appeal from the Senate to the Rectorial Court.

And be it Enacted, That all decisions of the Senate shall be subject to appeal to the Rectorial Court, except as hereinafter provided.

45. All Degrees to be granted by the Senate.

And be it Enacted, That all the power of conferring Degrees in in any lawful Faculty heretofore granted to or possessed by the King's College and University of Old Aberdeen, and Marischal College and University in Aberdeen, or either, shall be vested in the Senate of the United University, constituted as hereinbefore enacted, without appeal to the Rectorial Court: Provided always, That the regulations for granting such Degrees in force at the time be duly observed by the Senate.

Ordinary discipline of the Students to be in the Senate.

And be it Enacted, That the ordinary discipline of the students in the United University, with power of dismissal and expulsion for immoral, disorderly or contumacious conduct, shall be vested in the Senate, without appeal to the Rectorial Court, except from Students on account of being dismissed from any class or classes, or of being expelled from the United University; and each Professor and Lecturer shall have the right of dismissing Students from his own class for disorderly or contumacious conduct therein, subject to appeal to the Senate.

47. Senate to appoint Librarians, &c. annually.

And be it Enacted, That the right of appointment, superintendence and dismissal of the Librarians and Servants, and subordinate officers of the United University, excepting the Factor or other officer appointed by the Rectorial Court, shall belong to the Senate, without appeal to the Rectorial Court: Provided always, That no such appointments by the Senate shall be made for a longer period than .

48. Senate may propose Regulations to the Rectorial Court;

and make Recommendations.

And be it Enacted, That the Senate shall have power to originate and recommend to the Rectorial Court any regulations for the granting of Degrees, for the curricula of study, for the mode of teaching, or for otherwise modifying the internal system of the United University; and all such regulations thus originating and recommended, shall take effect upon receiving the sanction and consent of the Rectorial Court; and the Senate shall also be entitled to submit for the consideration of the Rectorial Court any proposal intended to promote, in any manner, the utility of the United University.

49. Appointment of Bursaries or Lectureships now in Principal or any of the Professors ex officio to be in the Senate.

Rectorial Court may enjoin them to be filled by competition.

AND whereas the Principals and Professors of King's College and University, and Marischal College and University, or certain of their number, have or may have, in virtue of their offices in the said Colleges and Universities, or either of them, the right of patronage and appointment on mortifications for Bursaries and Lectureships in either of the said Colleges and Universities: AND whereas it is expedient that such rights be vested in the Senate of the United University; BE it therefore Enacted, That all and every such gift, patronage or right of appointment now vested in or which may hereafter be granted to the Principals and Professors in the said Colleges and Universities ex officio, or to any of them, shall belong to and be exercised by the Senate of the United University: Provided always, That the Rectorial Court shall have power to enjoin and require the Senate to fill up any or all of such Bursaries and Lectureships by competition.

50. Professors of the United Universities.

And be it Enacted, That there shall be hereafter appointed in the United University the following Professors thereof, namely, *Three* Professors

Professors of Divinity, teaching severally the branches of Systematic Theology, of Biblical Criticism, and of Church History, a Professor of Oriental Languages, a Professor of Law, a Professor of the Practice of Medicine, a Professor of Surgery, a Professor of Anatomy, a Professor of Chemistry, a Professor of Natural History, a Professor of Natural Philosophy, a Professor of Mathematics, a Professor of Moral and Political Philosophy, a Professor of Rhetoric and English Literature, a Professor of Greek Literature, and a Professor of Roman Literature: Provided always, That the Rectorial Court shall, so long as there is no separate Professorship of Logic, enjoin and require the teaching of Logic either by the Professor of Moral and Political Philosophy, or by the Professor of Rhetoric and English Literature, as to the said Court shall seem fit; and the Rectorial Court, so long as there is no separate Professorship of Astronomy, shall have power to enjoin and require the teaching of Astronomy by the Professor of Mathematics, or by the Professor of Natural Philosophy, as to the said Court shall seem fit; and also that the Rectorial Court shall have power to assign and limit to the Professor of Law, the department or departments of Law to be taught by him; and likewise to assign and limit to the Professor of Natural History the department or departments of Natural History to be taught by the said Professor of Natural History; and generally shall have power to assign to all the Professors and Lecturers in the United University their respective departments, and to decide all questions respecting the interference of Professors with each other in their respective departments.

51. Which Professors Principal and Sub-Principal.

And be it Enacted, That the Professors of Divinity of the United University hereafter to be appointed therein to teach severally the three branches of Systematic Theology, of Biblical Criticism, and of Church History, shall succeed to the offices of Principal and Sub-Principal of the United University, in the order of their seniority in the said three Professorships; and the Principal shall be Primarius Professor of Divinity of the United University: Provided always, That during any temporary vacancy in the office of Principal, or during any absence of the Principal with permission of the Rectorial Court, the duties, privileges and responsibility of that office, but no part of the emoluments thereof, shall, during such vacancy or absence, devolve on the Sub-Principal; and that in the event of any Principal becoming unfit for the discharge of his duties, from sickness, bad health, old age, or any other infirmity, the duties, privileges and responsibility of such Principal, but no part of his emoluments, shall, so long as the said Principal continues disabled from such infirmity, devolve on the Sub-Principal; but the professorial duties of such disabled Principal shall be performed by substitute, as for the case of a disabled Professor has hereinbefore been provided

Duties of Sub-Principal.

vided: Provided also, That the Principal, in case of being disabled, from infirmity, or after he shall have reached the age of years, may be superseded as a Professor, or shall be entitled to resign his Professorship in the same manner as is hereinbefore provided for in the case of other Professors, but without being obliged to resign his office of Principal, or any of the emoluments of the said office.

52. Salaries to Professors of the United University, and restrictions according to the number of Students.

And be it Enacted, That the Salaries payable to the Principal and Professors of the United University shall be in lieu of all Salaries, bequests and grants destined to the Principals and Professors of King's College and University, and Marischal College and University, or either of them, and shall be free of all the burthens, restrictions and conditions affecting the said old salaries, bequests and grants, and particularly the obligation imposed of teaching Bursars without receiving fees, which the Rectorial Court shall have power to provide for out of the funds destined for that purpose; and the stated salary annexed to the office of Principal of the United University shall be *Two hundred* Pounds sterling a year; and the salary annexed to each of the Professorships of the United University, hereinbefore specified as hereafter to be appointed therein, shall be subject to restrictions dependent on the number of Students attending the Professor, as follows; (that is to say) the salary, exclusive of fees, of a Professor of the University, in the faculty of Theology, for any one year, shall not exceed *Seven Pounds Ten Shillings* for each Student, giving in such year stated attendance at the regular class or classes of such Professor in the proper department of such Professor; and the salary, exclusive of fees, of a Professor of the United University in any of the other faculties, for any one year, shall not exceed *Five* Pounds for each Student, giving in such one year stated attendance on the regular class or classes of such Professor in the proper department of such Professor; and no salary shall be due or paid to any of the said Professors, when the number of Students giving in any one year stated attendance on his regular class or classes, in his proper department, shall be less than *Sixteen:* Provided always, That if the stated salary, or if increased, the increased stated salary, annexed to any Professorship as hereinafter provided, shall, as aforesaid, in any one year be liable to deduction on account of the number of Students as aforesaid, and if the stated salary, or if increased, the increased stated salary of the Professor shall for the year next preceding have undergone no such deduction, the salary of such Professor for the said one year shall undergo a deduction, if any, only according to the average of the number of his Students in such one year, and in the year next preceding; and further subject to the foregoing conditions and restrictions, the stated salaries of the several Professors aforesaid shall not exceed as follows;

follows, namely, to each of the three Professors of Divinity, teaching severally the branches of Systematic Theology, of Biblical Criticism and of Church History, and to the Professor of Oriental Languages each *Two hundred and Fifty* Pounds sterling a year; to the Professor of Law, to the Professor of the Practice of Medicine, and to the Professor of Surgery, each *One hundred* Pounds sterling a year; and to each of the following nine Professors, namely, the Professor of Anatomy, the Professor of Chemistry, the Professor of Natural History, the Professor of Natural Philosophy, the Professor of Mathematics, the Professor of Moral and Political Philosophy, the Professor of Rhetoric and English Literature, the Professor of Greek Literature, and the Professor of Roman Literature, each *Two hundred* Pounds sterling a year; and the Rectorial Court shall have full power and authority to increase, as the funds of the United University will permit, and as to the said Court shall seem proper, any or all of the said Salaries to the said sixteen Professorships of the United University to an extent not exceeding to each *One hundred* Pounds a year over and above the said stated Salaries respectively.

53. Salaries to be for the time from Michaelmas to the close of the Session.

And be it Enacted, That the Salaries hereinbefore provided to the Principal and Professors to be hereafter appointed in the said United University shall begin to run from the term of *Michaelmas* yearly; so that a Principal or Professor holding his office and performing the duties thereof from any term of *Michaelmas* to the close of the session then current, or immediately following, shall, subject to the conditions and restrictions hereinbefore contained, be entitled to the full salary for the year from *Michaelmas* then current; and that a Principal or Professor appointed and inducted subsequent to the close of a Session and before the term of *Michaelmas* next following shall be entitled to no part of the Salary for the year from *Michaelmas* then current.

54. Manse in Old Aberdeen for the Professor of Divinity and Systematic Theology.

AND whereas the Manse and Garden described in the deed of Mortification thereof as being "in the south-west and north-west sides of the Chaplain's Chalmers," at present possessed by the Professor of Divinity of King's College, were specially disponed by John Forbes, of Corse, to the Professor of Divinity, "within the said King's University of Old Aberdeen," and to his successors, and was confirmed to them by royal charter; BE it therefore Enacted, That the Professor of Divinity and Systematic Theology of the United University shall have, in addition to the other rights and privileges under this Act given to him, the right of possession of the said Manse and Garden, without payment of rent, but on the same conditions and with the same privileges they now are and have been possessed by the Professor of Divinity in King's College, and the Rectorial Court shall have power to grant such possession accordingly.

55. Salaries for new Professorships to be likewise under restrictions according to the number of Students.

AND whereas it is herein provided, That no new Professorship shall be instituted, unless an indowment be first provided, affording at least *One hundred and Fifty* Pounds sterling a year if the Professorship be in the Faculty of Theology, or at least *One hundred* Pounds sterling a year if the Professorship be in any other faculty; BE it Enacted, That upon the institution of any new Professorship, the Rectorial Court shall have no power to appropriate from the general Funds of the United University the Salary, or any part thereof, annexed to any such new Professorship, except under the conditions and restrictions aforesaid, having reference to the number of Students taught by such Professor.

56. New Professorships may be instituted.

And be it Enacted, That no Professorships in addition to those hereinbefore specified, shall be instituted, except by authority of the Crown, nor unless an endowment be first provided, affording at least *One hundred and Fifty* Pounds sterling a year if the Professorship be in the Faculty of Theology; and at least *One hundred* Pounds sterling a year if the Professorship be in any other Faculty.

57. Private Parties may on certain conditions found Professorships.

And be it Enacted, That the Rectorial Court shall have power to entertain proposals from any private party or public body offering an endowment, not less than the amount before specified, to found a new Professorship in the United University, in any branch for which there is not a regular Professorship; and if the Rectorial Court shall approve of the institution of such Professorship, the proposals and their approbation thereof, shall be communicated to the Chancellor, and, with his concurrence, a petition by the Rectorial Court to the Crown shall be submitted, praying His Majesty to institute the proposed Professorship; and the Rectorial Court shall have power to give to Professorships of the United University thus founded and instituted the name of the Founders.

These may be named after the Founders.

58. Such private Party may nominate the first Professor.

And be it Enacted, That any private party or public body founding such additional Professorship, shall be entitled to appoint the first Professor, provided the Person so appointed shall be judged competent, after trial, in presence of a convocation, by examiners nominated specially for such purpose by the Rectorial Court; but all appointments after the appointment of the first Professor, shall be made by competition, conducted according to the rules hereinafter set forth for other Professorships of the United University, without any additional restriction being imposed or imposeable by such private party or public body.

59. All Professors to be appointed by competition.

And be it Enacted, That all Professorships, except upon the first foundation of any Professorship by any private party or public

public body, as hereinbefore provided, shall be filled up by competition; and upon a vacancy occurring in any Professorship, public notice thereof, and public invitation to candidates, shall be made by the Principal by intimation on the College Gates, and by *Three* Advertisements in one or other of the Aberdeen Newspapers; by *Three* advertisements in one or other of the Edinburgh Newspapers, and by *Three* Advertisements in one or other of the Glasgow Newspapers, and by such other means of publicity as the said Court shall think proper, and all such intimations and advertisements shall be published within *One* Month after the occurrence of such vacancy shall become known to the Principal.

All Vacancies to be advertised.

60.

Up to the year 1850, certain delays allowed in filling up Vacancies.

Provided always, That with regard to the four new Professorships, namely, the Professorship of Divinity and Biblical Criticism, the Professorship of Anatomy, the Professorship of Surgery, and the Professorship of Rhetoric and English Literature, the Rectorial Court shall have power to defer the appointment of the first Professors of the same, or any of them up to the *Thirty-first* day of *December One thousand eight hundred and Fifty*, but no longer; and that with regard to all the other twelve Professorships of the United University, the Rectorial Court shall have power, in the event of a vacancy, to defer filling up such vacancy for *Five* Years from the occurrence of such vacancy; and this power of deferring for *Five* Years the filling up of a vacancy in a Professorship shall be possessed by the Rectorial Court up to the said *Thirty-first* day of *December One thousand eight hundred and Fifty*, but no longer.

61.

Competitions, when;

and to be advertised.

And be it Enacted, That every competition for the filling up of such vacancy shall take place in presence of a Convocation, betwen *Two* and *Six* Months after the occurrence of such vacancy shall become known to the Principal, and shall commence on a day to be fixed by the Rectorial Court, and to be by the Principal intimated on the College Gates, and further advertised at least *Three* times in the Newspapers wherein the vacancy was advertised, as aforesaid, but subsequently to the advertisements of the vacancy, and all such intimations and advertisements shall be published at least a *Month* previous to the commencement of such competition.

62.

Examiners at Competitions, who.

And be it Enacted, That the Rectorial Court shall have power to nominate Examiners to conduct every such competition; and upon fixing a day for any such competition, the Rectorial Court shall fix the stated Salary, or increased stated Salary, of the vacant Professorship, and shall invite, as Examiners, the Professors, if any, in the corresponding department, and if teaching the same

in the Universities of Saint Andrew's, Glasgow and Edinburgh; and if the vacancy be in the Professorship of Divinity and Systematic Theology, the Rectorial Court shall invite the Moderator for the time being of the Synod of Aberdeen as an Examiner, and each Presbytery in the said Synod to nominate and send one Examiner; and if the vacancy be in the Professorship of Divinity and Biblical Criticism, or in the Professorship of Mathematics, the Rectorial Court shall invite the Provost, Magistrates and Town Council of the city of Aberdeen to nominate and send one Examiner; and if the vacancy be in the Professorship of Oriental Languages, the Rectorial Court shall invite the Laird of Balmain, if of the name of Ramsay, to nominate and send one Examiner: Provided always, That the number of all the acting Examiners shall not in any such competition be less than *Two*; and that the Rectorial Court shall not have power to nominate other Examiners beyond those the said Court is herein required to invite, so as to make the number of all the acting Examiners more than *Seven*.

63. Who admitted Candidates.

And be it Enacted, That every candidate shall be admitted to competition for any vacant Professorship, provided the candidate shall, previous thereto, furnish to the Rectorial Court testimonials satisfactory to the said Court as to his moral and general character, and his fitness for the office of a Professor; and that, in case of any of the three Professorships of Divinity, or of the Professorship of Oriental Languages the candidate be an ordained Minister of the Church of Scotland, or at least a Licensed Preacher of the said Church: Provided also, That when any Principal, or any of the three Professors of Divinity, or any Professor of Oriental Languages, shall cease to be an ordained Minister of the Church of Scotland, or at least a Licensed Preacher of the said Church, he shall be held ipso facto to have resigned his office in the United University.

64. Competitions how conducted.

And be it Enacted, That the examinations in such competitions shall be conducted under the superintendence of the Rectorial Court, in presence of a Convocation, and according to regulations framed or sanctioned by the Rectorial Court; and the Examiners shall try all the candidates as to the variety and extent of their attainments in the department of the vacant Professorship, and as to their fitness for communicating instruction therein, and shall receive any such original work or publication therein as any candidate, being the author thereof, shall submit for their consideration; and the candidate found best qualified by a majority of all the the acting Examiners, after due consideration of the variety and extent of the attainments of all the candidates, in the department of the vacant Professorship, and their fitness for communicating instruction

instruction therein, and the merits of such works or publications as aforesaid, shall be appointed to the vacant Professorship by the Rectorial Court; and if, upon the votes of the acting Examiners being taken, no candidate have a majority of the votes of all the acting Examiners, the examination shall be resumed of as many of the candidates that have had most votes, as the acting Examiners, by a majority of their number, shall agree to examine further.

Successful competitor appointed.

65.

And be it Enacted, That the Exercises of the successful candidate written under competition, shall be published by the Rectorial Court, together with the corresponding Exercises of as many of the unsuccessful candidates as shall desire their exercises to be so published; the expense of such publicatian to be borne by all the candidates whose exercises shall be so published.

Written Exercises of successful Competitor to be published.

66.

And be it Enacted, That the other expenses attending such competitions shall he defrayed out of the University Funds, provided any disposable funds exist at the time; but if no funds remain at the disposal of the Rectorial Court for such purpose, the said Court shall be entitled to appropriate thereto so much of the first *half year*'s endowment of the Professorship as may be necessary to defray such expenses.

Expenses attending Competitions, how defrayed.

67.

And be it Enacted, That the induction of the Principal and Sub-Principal shall take place within *Six* Weeks after their respectively succeeding to such office, and the induction of every Professor shall take place within *Six* Months after his appointment; and if a Professor elect fail to be inducted within that period, he shall ipso facto be held to have resigned; and every Professor elect shall, in presence of the Convocation, before his induction, make and subscribe a declaration, that so long as he shall remain a Professor in the united University, he will never directly or indirectly do or cause, or wilfully suffer to be done, any thing to the subversion or to the injury or prejudice of the Established Church of Scotland; and any Professor failing to observe and conform to such declaration, shall be liable to deposition by the Rectorial Court.

Induction.

Declaration.

68.

And be it Enacted, That no Person to be hereafter appointed a Principal or Professor in the United University, shall, while holding such office, hold any other official or permanent situation, or be engaged in any regular trade or profession, except so far as he has obtained the written permission of the Rectorial Court; and no Principal or Professor in the United University shall hold at the same time more than one endowed Professorship therein: Provided always, That if any person holding one such Professorship accept of a second, he shall ipso facto be held to have resigned the first;

Pluralities not allowed.

and that if a Principal or Professor in the United University shall accept of a parochial charge, he shall ipso facto be held to have resigned his office in the said University; and that no Minister of a parish appointed to a vacant Professorship in the United University shall be lawfully inducted into such Professorship without first producing evidence of his having resigned such parochial charge; and if any such Professor elect shall be inducted without first producing such evidence, not only his induction, but his appointment shall be null and void, and the Principal shall advertise the vacancy as if it had occurred on the day of such unlawful induction.

69. Principal and Professors divided into Faculties.

And be it Enacted, That the Principal and all the Professors in the United University, shall be divided into at least *Four* Faculties, videlicet, the Faculty of Theology, the Faculty of Law, the Faculty of Medicine and the Faculty of Arts; and that the Principal and three Professors of Divinity teaching severally the branches of Systematic Theology, of Biblical Criticism and of Church History, and the Professor of Oriental Languages, shall be members of the Faculty of Theology; and the distribution of all other Professors into the several Faculties, shall belong to the Rectorial Court; and each faculty shall be entilted to examine candidates for Degrees therein, and to meet for the consideration of any matters affecting the peculiar interests thereof, and to originate and recommend regulations in the proper department thereof to the Rectorial Court; but no decision of any Faculty shall have any force in the United University, unless sanctioned by other competent authority, or unless authorized by the regulations of the United University existing at the time.

Powers of the Faculties.

70. Lecturers may be appointed, how.

And be it Enacted, That the Rectorial Court shall have power to appoint Lecturers in any branch for which there is not a regular Professorship, after ascertaining and recording the opinion of the Faculty to which the Lectureship may belong; and the said Court shall have the exclusive power to give or to refuse sanction to the appointment of Lectureships in any such branch, by any private party or public body; and no Lecturer shall be appointed so as to be a bar to the institution of a Professorship, or to the appointment of a Professor for the branch to be taught by such Lecturer; and the period of every appointment of the Lecturers, appointed or sanctioned by the Rectorial Court in virtue of this Act, shall terminate at the next following stated meeting of the Rectorial Court, and every Lecturer so appointed in the United University, and every substitute lecturing or teaching for a Professor unable, from infirmity, to teach (provided such substitute has been so lecturing or teaching for not less than *Six* Months), shall be entitled to attend the meetings of the Faculty to which his class belongs, and shall be summoned and shall be entitled to vote, and shall ex officio be a member, the same as a Professor belonging to the same Faculty:

Provided

Provided always, and be it Enacted, That the appointment of Lecturers at present in King's College and Marischal College, or either of them, shall terminate at the first stated annual meeting of the Rectorial Court after the *passing of this Act.*

71. Lecturers may have certain Salaries.

And be it Enacted, That the Rectorial Court shall have power to give to Lecturers appointed by the said Court Salaries not exceeding *Eighty* Pounds a year to each; provided that the salary, apart from fees, of any Lecturer for any one year shall not exceed *Two* for each Student giving in such year stated attendance in the regular class or classes of such Lecturer in his proper department; and that if the Students so giving attendance in any one year shall be fewer in number than *Sixteen*, such Lecturer shall not receive any salary whatever for such year.

72. Monitors to be appointed;

AND whereas the incomes arising from certain funds mortified for Bursaries in King's College and University, and Marischal College and University, or either of them, have so increased as to leave a large surplus, after providing for the objects which the Founders contemplated, and to which the funds were destined: AND whereas, in King's College, to the great encouragement of the proficiency of the Students, part of the said surplus funds have been for some time heretofore beneficially appropriated to supply class prizes: AND whereas the said Commissioners for visiting Universities and Colleges in Scotland have recommended the appointment of Tutors in the united University, and that part of the burse funds should be applied for the support of such Tutors, and it is expedient that the Rectorial Court should have power to apply such surplus funds for such purposes: BE it therefore Enacted, That the Rectorial Court shall have power to appropriate part of the said surplus funds for providing class prizes in the United University; and shall also have power, on the application of any Professor in the United University, to institute Monitorships to be held by Graduates of Arts of the said University, or of King's College and University, or of Marischal College and University, each Monitor being limited to the department of a Professor, and obliged, under his direction, to assist such Professor in the conducting of his class as may be required by him; and every such Monitor shall be appointed by competition, under the direction and inspection of the Senate, for a period not exceeding *Three* Years; and the Rectorial Court shall have power to allow to the Monitor so appointed for each of the *Three* Years, such sum out of the said surplus income, and out of the general funds of the United University, or of either, as to the said Court shall seem fit: Provided always, That no Monitor so appointed shall be again eligible as a Monitor in the United University: Provided also, That every such Monitor shall be responsible to the Senate for the performance of his duty and propriety of his conduct, upon pain of deposition.

their Duties.

73. Rectorial Court empowered to appropriate grant of Will. 3. to support of Monitors.

AND whereas, by King WILLIAM the Third's Mortification, out of the Bishop's Rents in Scotland, provision is made for Bursars attending the Divinity Classes of King's College and Marischal College, and it is expedient that the destination thereof should be altered; BE it therefore Enacted, That the Rectorial Court shall have power to appropriate for the support of Monitors as aforesaid the portion of the said grant provided to Bursars as aforesaid.

74. Classes, where to be taught.

And be it Enacted, That all the Classes in the Faculties of Law and Medicine in the United University shall be taught in the buildings of Marischal College; and all the Professors in the Faculty of Theology, to be hereafter appointed in the United University, shall teach the classes in their proper departments, respectively, in the buildings of King's College; and all the other Professors hereafter to be appointed shall teach the classes in their proper departments respectively in the buildings of Marischal College; and all Public Meetings, or other Meetings, to be held under or in virtue of this Act, shall be held in the buildings of one or other of the said Colleges.

Meetings, where to be held.

75. The Convocation.

And be it Enacted, That the Convocation shall be composed of the Chancellor, the members of the Rectorial Court, the Professors, the Lecturers, and the Monitors; and the Chancellor shall preside at the Convocation; and in the absence of the Chancellor, the members of the Senate in the same order as at Meetings of the Senate.

76. Convocations to be held for Installations and Inductions.

And be it Enacted, That Convocations shall be assembled for the installation of the Chancellor, of the Rector and of the Dean, for the induction of the Principal, of the Sub-Principal, and of the Professors, into their respective offices, for witnessing the conferring of Degrees by the Senate, for the distribution of University Prizes, and for the general distribution of Class Prizes; and Convocations for such purposes shall be intimated on the College Gates by the Principal, and shall be open to all the Graduates and Students of the United University, and the Graduates of King's College and University and of Marischal College and University: Provided always, That upon application for installation or induction to any of the offices aforesaid, the Principal shall be obliged to summon the Convocation in due time; and the Convocation shall instal or induct into any such office any person appointed thereto under this Act, and appearing or claiming installation or induction; and that the time and place of any installation or induction during vacation time, shall be by the Principal publicly advertised in one or other of the Aberdeen Newspapers *Fourteen* Days previous to such installation or induction.

And

77. Convocations for witnessing Examinations, and Competitions for Professorships;

And be it Enacted, That the Convocation shall be assembled also for witnessing all examinations of persons appointed to Professorships, and all competitions for Professorships, and such Convocations shall be intimated by the Principal as meetings for the election of a Rector are hereinbefore directed to be intimated, and shall be open to all the Graduates of the United University, and of King's College and University, and of Marischal College and University, in the Faculty to which the Professorship belongs, and to such other persons as the Chancellor or the Rectorial Court shall deem it proper to admit.

78. Who may summon the Convocation.

And be it Enacted, That for the several purposes before specified, the Chancellor, the Rector, the Principal or the Senate shall be entitled to summon a Convocation; but the Convocation shall be held for no other purpose, unless requested by the Senate, and sanctioned by the Rectorial Court.

79. Duke of Gordon and Earl of Aberdeen to be joint Chancellors.

AND whereas it is expedient to allow certain of the Heads, Principals and Professors of the said King's College and University, and Marischal College and University, to hold corresponding offices in the United University, and United King's and Marischal College, subject to the conditions, provisions and restrictions in this Act made and contained; BE it therefore Enacted, That his Grace the Duke of Gordon and the Right honourable the Earl of Aberdeen shall be Joint Chancellors of the United University; and after the death or resignation of either of them, the other shall be Chancellor of the United University; and the said Duke of Gordon, being the senior Chancellor, shall have precedence.

80. Who joint Rectors and Dean till an Election.

AND whereas the Rector and Dean of the United University are not in virtue of this Act to be elected till several months after the passing thereof; BE it therefore Enacted, That the Right honourable John Arbuthnot Viscount Arbuthnot, present Rector of King's College and University, and John Abercrombie, of the city of Edinburgh, Doctor of Medicine, present Rector of Marischal College and University, shall be Joint Rectors of the United University, until the first election of a Rector under the provisions in this Act contained, and both or each shall be entitled to attend and vote at the meetings of the Rectorial Court; and of the said Two Rectors, the said Viscount Arbuthnot shall have precedence; and James Blaikie, Esquire, of Craigiebuckler, present Dean of the Faculty of Marischal College, shall be Dean of the United University, until the time of the first stated election of a Dean under this Act, but no longer, unless re-elected.

81. Principals of of King's College and of Marischals College, to be joint Principals of the United University.

And be it Enacted, That the Very Reverend William Jack, Doctor of Divinity, Principal of King's College, and the Very Reverend Daniel Dewar, Doctor of Divinity and of Laws, Principal of Marischal College, shall be Joint Principals of the United University; and after the death or resignation of either of them, the other shall be sole Principal of the United University; and at the meetings of the Rectorial Court, of the Senate and of the Faculties, both or either of the said Principals shall be entitled to attend and vote; and the said Principal William Jack, being the senior Principal, shall have precedence; and while the said *Two* Joint Principals continue to hold office, they shall each, within the buildings of the College, of which before the passing of this Act he was the Principal, severally perform the duties of visiting the Classes, and reporting thereupon, and, in case of need, of admonishing Professors and Lecturers; but in the performance of the other duties imposed on the Principal of the United University, the said Doctor William Jack shall be held to be Principal, and the said Doctor Daniel Dewar shall be held to be Sub-Principal: Provided always, That the Rectorial Court shall have power, upon the death or resignation of the said Principal William Jack without a retiring allowance, to appoint the said Doctor Daniel Dewar to the Professorship of Divinity and Church History of the United University, with the emoluments therewith connected, provided the said Doctor Daniel Dewar shall resign the emoluments of the office of Principal of Marischal College, and of the Professorship of Church History therein, which he at present holds.

82. Dr. Alexander Black may be first Professor of Divinity and Biblical Criticism.

AND whereas the Reverend Alexander Black, Doctor of Divinity, is Professor of Divinity in Marischal College and University: AND whereas a Professorship of Divinity and Biblical Criticism of the United University, is by this Act instituted; BE it Enacted, That the Rectorial Court shall have power to give to the said Doctor Alexander Black the first appointment to the said Professorship of Divinity and Biblical Criticism of the United University, with the emoluments and privileges thereof, but under the conditions and restrictions therewith connected; provided always, That the said Doctor Alexander Black shall resign his said Professorship in Marischal College, and the emoluments thereof.

83. Certain of the present Professors may be appointed Professor of the United University.

AND whereas Duncan Mearns, Doctor of Divinity, is Professor of Divinity in King's College and University, Patrick Davidson, Doctor of Laws, is Professor of Civil Law in King's College and University, Thomas Clark, Doctor of Medicine, is Professor of Chemistry in Marischal College and University, and James Davidson, Doctor of Medicine, is Professor of Natural and Civil History in Marischal College and University; BE it Enacted, That the Rectorial Court shall have power

power, on the application of the said Professors respectively, to appoint, without competition, the said Doctor Duncan Mearns Professor of Divinity and Systematic Theology of the United University, the said Doctor Patrick Davidson Professor of Law of the United University, the said Doctor Thomas Clark Professor of Chemistry of the United University, and the said Doctor James Davidson Professor of Natural History of the United University, with all the rights and privileges and under all the conditions and restrictions connected with the said several Professorships; but only upon receiving from each of the said Professors so appointed a resignation of his Professorship in King's College or Marischal College, with all the rights and emoluments thereof; and on the death or resignation of the said Professors, whether so appointed Professors of the United University or not, the Professorships of the United University corresponding to those at present held by them in either of the said Colleges, shall be held to be vacant, and in like manner, upon the death or resignation of Charles Skene, Doctor of Medicine, and Professor of Medicine in Marischal College and University, the Professorship of the Practice of Medicine of the United University shall be held to be vacant: Provided always, That in the event of the said Doctor Duncan Mearns and Doctor Alexander Black being both appointed, as hereinbefore set forth, Professors of Divinity of the United University, the said Doctor Duncan Mearns shall be held to be the senior Professor in appointment, and shall have accordingly right to succeed to the office of Sub-Principal in the United University, upon that office becoming vacant.

84. In double Professorships, on the Death or Resignation of one Professor, without a Retiring Allowance, the Rectorial Court may or may not appoint for the branch, the Professor of the United University, or a Lecturer during the other Professor's continuing in office;

AND whereas on the union of the said two Colleges and Universities, there will for a time be in the departments of several Professorships two Professors teaching the same branches, inasmuch as James Bentley, Master of Arts, is Professor of Oriental Languages in King's College, and George Gordon M'Lean, Doctor of Medicine, is Professor of Oriental Languages in Marischal College, Hercules Scott, Master of Arts, is Professor of Moral Philosophy in King's College, and George Glennie, Doctor of Divinity, is Professor of Moral Philosophy in Marischal College, John Fleming, Doctor of Laws, is Professor of Natural Philosophy in King's College, and William Knight, Doctor of Laws, is Professor of Natural Philosophy in Marischal College, John Tulloch Master of Arts, is Professor of Mathematics in King's College, and John Cruickshank, Doctor of Laws, is Professor of Mathematics in Marischal College, Hugh Macpherson, Doctor of Medicine, is Professor of Greek in King's College, and Robert James Brown, Doctor of Divinity, is Professor of Greek in Marischal College: AND whereas Patrick Forbes, Doctor of Divinity, is Professor of

Humanity in King's College, and the corresponding branch, has hitherto been taught by a Lecturer in Marischal College, where there is no corresponding Professor; BE it therefore Enacted, That on the death or resignation, without any retiring allowance, of either of the Professors in any of the foresaid double Professorships, the Rectorial Court shall have power to appoint, or refrain from appointing, as to the said Court shall under the circumstances existing at the time seem fit, the Professor of the United University in the corresponding department, or a Lecturer in such department to lecture or teach so long as the Professor holding the corresponding department continues in that office, and to allow such Lecturer, if appointed, such salary and fees, from time to time, as to the said Court may seem proper; or the Rectorial Court shall have power, on petition of the Professor remaining in office, and upon condition of his resigning his Professorship, with all the rights, privileges and restrictions therewith connected, to appoint him, without competition, to the corresponding Professorship of the United University, with all the rights and privileges, and under all the conditions and restrictions therewith connected; and the Rectorial Court shall also have power to appoint the Professor of Roman Literature of the United University, or a Lecturer in the said branch to teach in the buildings of Marischal College as heretofore, or to appoint, under the conditions aforesaid, the said Doctor Patrick Forbes, Professor of Roman Literature of the United University: Provided always, That in the case of the resignation, with a retiring allowance, of either of the Professors in the foresaid double Professorships, the Rectorial Court shall have power to appoint, or refrain from appointing, as to the said Court shall under the circumstances existing at the time seem fit, a Lecturer in the department of such Professor, as long as the Professor holding the corresponding department in the other College continues in that office; and to allow to such Lecturer, if appointed, such salary and fees from time to time as to the said Court shall seem proper.

* or to appoint that other the Professor of the United University.

If one Professor resign with a retiring Allowance, only a Lecturer in his stead to be appointed.

85. Present Professors to retain their Salaries.

And be it Enacted, That, notwithstanding the provisions with regard to Salaries in this Act contained, the Principals and Professors at present holding offices in either of King's College or Marischal College, shall enjoy and have right to receive the same Salaries as they have had a right to receive from the College properties and funds with which they are respectively connected, had this Act not been passed; and so long as any one of the present Incumbents continues to retain such right so reserved to them, the Rectorial Court shall cause their Factor to keep an account of the funds and properties from which the said Salaries have been in use to be paid, separate and distinct.

And

AND whereas the Fees of the Professor of Moral Philosophy in King's College and University, and Marischal College and University, have in part consisted of fees received from Graduates in Arts on their graduation; BE it Enacted, That the Rectorial Court shall have power to grant to George Glennie, Dctor of Divinity, and Hercules Scott, Master of Arts, the present Professors of these branches in the said two Colleges, such compensation for the said Graduation Fees as to the said Court shall seem proper.

Compensation to Professors of Moral Philosophy in King's College and Marischal College for Graduation Fees.

86.
Rectorial Court may allow present Professors to resign, with a certain retiring Allowance.

And be it Enacted, That the Rectorial Court shall have power to accept from any or all of the present Principals and Professors of the said King's College and Marischal College resignations of their several offices in the United King's and Marischal College, with the whole rights and privileges therewith connected, and to allow to the person or persons so resigning such retiring yearly allowance or allowances as in the circumstances of each individual case shall to the said Court appear to be equitable; but no such retiring yearly allowance shall be more than a *Twenty-fourth* part of the sum of all the Salaries, exclusive of fees, which have been due or paid to such Principal or Professor so resigning, during all the years, not exceeding *Thirty*, during which such Principal or Professor has held office in either of the said Colleges; and in the case of such Principal or Professor having held office for a longer period than *Thirty* Years, such *Thirty* Years of the service as have been at the highest rates of salary, shall be the years according to which his retiring allowance shall be computed.

87.
Present regulations as to teaching, and other professional duties, to continue in force till altered by the Rectorial Court.

And be it Enacted, That the Professors of the United King's and Marischal College shall be subject to the regulations which shall be in force at the passing of this Act in King's College and University and Marischal College and University respectively, in regard to the mode of teaching and the performance of any other duties incumbent on them as Professors, until the said regulations shall be altered by the Rectorial Court; and curricula required as conditions for obtaining Degrees in King's College and University, and Marischal College and University, at the passing of this Act, shall in like manner continue to be required until altered by the Rectorial Court; but any alteration which shall be so made on the regulations for such curricula, shall not be imperative on any Student who shall have entered on his curriculum of study previous to the institution and publication of such alteration: Provided always, That the Senate of the United University shall have the sole power as hereinbefore enacted of granting Degrees after the *passing of this Act*.

88.
Appointment of present Factors to terminate 30th September 1835.

And be it Enacted, That the appointments of the Procurators, Masters of Mortifications, Factors or Treasurers, in or for King's

College and Marischal College, or either of them, shall terminate on the said *Thirtieth* day of *September One thousand eight hundred and Thirty-five*, and the powers and privileges of such Procurators, Masters of Mortifications, Factors or Treasurers, shall cease accordingly on that day.

89. Professors, which, to succeed Professors of King's College and Marischal College, Trustees ex officio in matters unconnected with the University.

AND whereas the Principals and Professors of King's College and Marischal College, or one or more of them, are is or may become Trustees and Managers, or Trustee and Manager, in virtue of their or his office in the said Colleges, or either of them, of institutions, properties, funds or other estate wholly unconnected with the United University, or with King's College or Marischal College, and are is or may be vested in heritable and moveable or real and personal estate, chattels and effects, also wholly unconnected with the said United University and the said Colleges, or either of them: AND whereas it is expedient that the successors respectively in the United University of the said Principals and Professors should succeed them in such management and trusts, and that no doubt should remain as to such successors; BE it therefore Enacted, That all estate, chattels and effects, real and personal, or heritable and moveable, at present vested in or held in trust for purposes unconnected with the said University and the said Colleges, or either of them, by the Principals and Professors of the said two Colleges, or any of them, shall, in virtue hereof, and without any other act or deed, on the death or resignation of such Principals and Professors, be vested in and be held by their successors in the United University; and in all such matters the Principal of the United King's and Marischal College shall be held as successor to the Principal of King's College and to the Principal of Marischal College, the Professor of Divinity and Systematic Theology of the United University shall be held as successor to the Professor of Divinity in King's College, the Professor of Divinity and Biblical Criticism of the United University shall be held as successor to the Professor of Divinity in Marischal College, the Professor of Divinity and Church History of the United University shall be held as successor to the Professor of Church History in Marischal College, the Professor of Oriental Languages of the United University shall be held as successor to the Professor of Oriental Languages in each of the said two Colleges, the Professor of Law of the United University shall be held as successor to the Professor of Civil Law in King's College, the Professor of the Practice of Medicine of the United University shall be held as successor to the Professor of Medicine in Marischal College, the Professor of Anatomy of the United University shall be held as successor to the Professor of Medicine in King's College, the Professor of Chemistry of the United University shall be held as successor to the Professor of Chemistry in Marischal College, the Professor

fessor of Natural History of the United University shall be held as successor to the Professor of Natural and Civil History in Marischal College, the Professor of Natural Philosophy of the United University shall be held as successor to the Professors of Natural Philosophy in each of the said two Colleges, the Professor of Mathematics of the United University shall be held as successor to the Professor of Mathematics in each of the said two Colleges, the Professor of Moral and Political Philosophy of the United University shall be held as successor to the Professors of Moral Philosophy in each of the said two Colleges, the Professor of Greek Literature of the United University shall be held as successor to the Professors of Greek in each of the said two Colleges, and the Professor of Roman Literature of the United University shall be he held as successor to the Professor of Humanity in King's College.

90. Old Foundations, &c. inconsistent with this Act, repealed; otherwise confirmed.

And be it Enacted, That all Foundations, Erections, Charters, Mortifications, Statutes, Laws and Usages now in force regarding the said King's College and University, and the said Marischal College and University, or either of them, or respecting any person or thing in this Act referred to or contained, shall be and and the same are hereby altered and repealed, in so far as such foundations, erections, charters, mortifications, statutes, laws and usages, or any of them, are or is inconsistent or at variance with this Act: Provided always, and be it Enacted, That such foundations, erections, charters, mortifications, statutes, laws and usages shall be in force in all other respects; and that all powers, rights, privileges, franchises, and immunities granted by the said foundations, erections, mortifications, statutes and laws, or any of them, to the said two Colleges and Universities, or either of them, shall now belong to the said United University, and United King's and Marischal College, whether the said two Colleges and Universities, or either of them, have used and exercised, or have refrained from using or exercising, the said powers, rights, privileges, franchises and immunities, or any of them.

91. Act may be altered during present Session.

And be it Enacted, That this Act may be varied, altered or repealed by any Act or Acts to be passed during the present Session of Parliament.

5 WILL. IV.—Sess. 1835.

A

BILL

For uniting King's College and University of Old Aberdeen, and Marischal College and University of Aberdeen into One University and College.

(*Prepared and brought in by Mr. Bannerman and Mr. Oswald.*)

Ordered, by The House of Commons, *to be Printed,*
22 *June* 1835.

9 *July* 1835.

A

B I L L

For the Regulation of the University of Glasgow.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS with a view to remedy the defective laws, statutes and usages by which the several Universities and Colleges in Scotland were governed, certain Commissioners, by virtue of Commissions issued by his late Majesty King GEORGE the Fourth, dated Twenty-third July and Twenty-eighth September One thousand eight hundred and Twenty-six, and by virtue of a Commission issued by His present Majesty, dated Twelfth October One thousand eight hundred and Thirty, were directed, amongst other things, to report to His Majesty their opinions on the statutes, laws and usages by which the said Universities and Colleges were governed:

And whereas the said Commissioners have made a Report to His Majesty, which has, by His Majesty's command, been laid before Parliament, whereby, amongst other things, it appears that it would tend greatly to the better management of the property of the University of Glasgow if such property were vested in a Court to be established for that purpose, and that it is expedient to alter and amend in other respects the laws, statutes and usages by which the said University and the several Members, Students and Officers thereof are governed and regulated;

Be it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by Authority of the same, THAT so much of all Acts of Parliament, Royal and other Charters, Grants and Letters Patent now in force relating

I. Laws and Charters inconsistent annulled.

lating to the University of Glasgow, or to the Members, Students or Officers thereof, or to any body or reputed body corporate of or in the said University, or to the Members, Students or Officers thereof, or any one or more of them, and all laws, statutes and usages so far only as the same are inconsistent with or contrary to the provisions of this Act, shall be and the same are hereby Repealed and Annulled.

2.
Interpretation.

And be it Enacted, That in the construction of this Act the word "University" shall be construed to mean University of Glasgow and College of Glasgow, and the word "Court" shall be construed to mean University Court of the University of Glasgow; and the word "Senate" shall be construed to mean Senate of the University of Glasgow; and the word "Officer" shall be construed to mean any person who shall be appointed by the Court to any office in the University; and the word "Servant" shall be construed to mean any person appointed by the Senate to any subordinate office in the University; and that in describing any person or thing, any word importing the singular number shall be construed to mean also several persons or things, unless there be something in the subject or context repugnant to such construction.

3.
Chief Office-Bearers.

And be it Enacted, That the chief office bearers of the University shall be the Chancellor, the Rector and the Dean; and the bodies in the University, who shall have the power of executing and managing the affairs thereof, and who shall have authority therein in manner after provided, shall be the Court and the Senate.

4.
Chancellor to be elected by Senate.

And be it Enacted, That the Chancellor of the University shall be elected for life by the Senate constituted as hereinafter enacted, on a day to be fixed by the Senate, at least *Three* Months previously, and to be intimated forthwith by the Principal of the University to all the Electors, and again to all the Electors between *Two* and *Four* Weeks previous to the election; and upon a vacancy in the office of Chancellor, an election thereto shall take place within *Nine* Months, and the installation of the succeeding Chancellor within *Twelve* Months after the occurrence of such vacancy: Provided always, That if any Chancellor elect shall fail to be installed within the said period of *Twelve* Months, he shall ipso facto be held to have resigned at the termination of the said period of *Twelve* Months, and another Chancellor shall be elected in his stead.

5.
Rector to be elected by the Principal, Professors, Graduates and Students.

And be it Enacted, That the Rector of the University shall be elected by the Principal, Professors, Lecturers, Graduates and matriculated Students in the University, between the hours of *Twelve* at noon and *Two* in the afternoon; and the first election shall take place on the *Sixteenth* day of *November* in the year *One thousand eight hundred and*

and Thirty-five, and the next stated election on the *Sixteenth* day of *November One thousand eight hundred and Thirty-nine*, and every stated election thereafter on the *Sixteenth* day of *November* in every *Fourth* year thereafter: Provided always, That if the *Sixteenth* day of *November* shall be a Sunday, then the said election shall take place on the day following; and the Principal shall, between *Two* and *Four* Weeks previous to such meeting, advertise the time thereof, and the place where it is to be held, in the Glasgow Newspapers, and also by written or printed intimation thereof affixed on the College Gates.

6. Who to preside at the election of the Rector.

And be it Enacted, That at every meeting so convened, the Principal shall preside, and in his absence the senior Professor then present; and the election of the Rector shall be determined by a majority of the Electors present; the Preses, in the event of an equality of votes, having the casting vote in addition to his own deliberative vote.

7. Students who give regular attendance and Graduates enrolled to vote.

And be it Enacted, That at any election of Rector, no Student shall be allowed to vote, unless he shall be attending one class at least of the University, and no Graduate shall be allowed to vote, unless, at least a Week previous to his first voting as a Graduate, he shall have paid the sum of *Five* Shillings towards the funds of the University, and have had his name enrolled as an Elector in a book to be kept by the Senate.

8. Rector when to be inducted.

And be it Enacted, That the installation of the Rector shall take place within *Three* Months after his election; and if any Rector elect shall fail to be installed within that period, he shall ipso facto be held to have resigned.

9. Occasional election of Rector on death or resignation.

And be it Enacted, That in the event of a vacancy in the office of Rector, by resignation or death, another Rector shall be elected, to remain in office until the next stated election to the said office; and in the case of such resignation or death coming to the knowledge of the Principal or Senate during any Winter Session, and before the last Three Weeks thereof, the election of a new Rector shall take place during such Winter Session, on a day to be fixed by the Senate, and at the usual hour of such elections; but in case of any such vacancy occurring at any other time, the election of a new Rector shall take place on the *Sixteenth* day of *November* following, in the usual way, the day, hour and place in either case being by the Principal publicly advertised and intimated, as in the case of the stated election of the Rector, as hereinbefore provided.

10. Rector's obligation by acceptance of office.

And be it Enacted, That the Rector by acceptance of the office shall be held to undertake the personal performance of the duties thereof, and more especially to be present at the stated annual meeting of the

Court, to take place as hereinafter provided, and shall not be entitled to appoint a Vice-Rector to act in his absence.

11. Dean elected by the Senate.

And be it Enacted, That the Dean of the University shall be elected for *Four* Years, by the Senate, on the *First Tuesday* after the stated election of the Rector, between the hours of *Twelve* noon and *Six* afternoon, intimation being given by the Principal to all the Electors between *Two* and *Four* Weeks previous to the day so appointed; and the installation of the Dean shall take place within *Three* Months after his election: Provided always, That if any Dean elect shall fail to be installed within that period, he shall ipso facto be held to have resigned.

12. Occasional election of a Dean, on death or resignation.

And be it Enacted, That in the event of a vacancy in the office of Dean, by resignation or death, coming to the knowledge of the Principal or Senate more than *Six* Months prior to the next following stated election to the said office, another Dean, to remain in office till the said stated election, shall be elected within *Six* Months after such resignation or death has come to the knowledge of the Principal or the Senate, at a place and on a day and at an hour to be fixed by the Senate, such time and place to be intimated by the Principal to all the Electors, between *Two* and *Four* Weeks previous to the election in manner aforesaid.

13. Chancellor, Rector and Dean to be different persons.

And be it Enacted, That the offices of Chancellor, Rector and Dean shall each be held by a different Person, and none of these offices shall be held by a Principal or Professor in the University.

14. Assessor to be chosen by Senate and Graduates.

And be it Enacted, That between the hours of *Two* and *Four* of the clock afternoon on the *Sixteenth* day of the month of *November* in the year *One thousand eight hundred and Thirty-five*, and again on the *Sixteenth* day of the month of *November* in the year *One thousand eight hundred and Thirty-nine*, and on the *Sixteenth* day of the month of *November* in every *Fourth* year thereafter, being the days on which a Rector is by this Act appointed to be chosen, the Members of the Senate and the Graduates of the University, enrolled as before provided, shall meet within the University and elect a fit and proper Person to be their Assessor for the purposes after mentioned, and who shall continue in office for the *Four* Years ensuing; which meeting shall be advertised and intimated by the Principal in the manner required by this Act in the case of a meeting for the election of a Rector; and at all meetings for the choice of an Assessor by the Senate and Graduates, the Principal, and in his absence the Senior Professor present, shall preside, and in the event of an equality of votes, have a casting vote in addition to his own deliberative vote: Provided always, That in the event of the *Sixteenth* day of *November* being a Sunday, the said election shall take place on the day following.

And

15. Occasional election of an Assessor by Senate and Graduates.

And be it Enacted, That in the event of a vacancy in the office of Assessor for the Senate and Graduates, by resignation or death, coming to the knowledge of the Principal or Senate during any Winter Session, and before the last Three Weeks thereof, the election of a new Assessor, to remain in office till the next stated election of an Assessor, shall take place during such Winter Session, on a day to be fixed by the Senate, at the usual hour of such elections; but in case of any such vacancy occurring at any other time, the election shall take place on the *Sixteenth* day of *November* ensuing, in the usual way, the day, hour and place, in either case, being by the Principal publicly advertised and intimated, as in the case of the election of a Rector.

16. Assessors to be named by Rector and Chancellor.

And be it Enacted, That the Rector shall, within *Two* Months after his appointment, nominate a fit and proper Person to be his Assessor for the purposes after mentioned, and who shall continue in office so long as the Rector by whom he was appointed shall hold the office of Rector; and in like manner the Chancellor of the University shall, on the day appointed for the election of a Rector at the end of each *Four* Years, nominate a fit and proper Person to be his Assessor for the purposes after mentioned, and such Assessor shall remain in office for the period of *Four* Years: Provided always, That in case a vacancy shall occur in the office of Assessor to be named by the Rector or Chancellor, the Rector or Chancellor respectively, as the case may be, shall, within *Two* Months after such vacancy shall occur, nominate a fit and proper Person to supply such vacancy during the remainder of the period for which said Assessor should have continued in office: Provided always, That in case the Rector or Chancellor shall at any time fail to appoint an Assessor, or supply a vacancy in that office as aforesaid, within the times before provided, the right to appoint such Assessor or to supply such vacancy shall, pro hac vice, devolve upon the Court.

17. Court, Members of.

And be it Enacted, That the Members of the Court shall be the several Persons hereinafter named or referred to, that is to say, the Rector of the University, the Principal of the University, the Dean of the University, the Lord Provost of the City of Glasgow, and, in case he shall be chosen for any office which entitles him otherwise to be a Member of the Court, or in case of his absence from Glasgow, the senior Baillie of, and in Glasgow the two Members of Parliament for, the City of Glasgow; the Assessor to be named by the Senate and the Graduates of the University, the Assessor to be named by the Chancellor, and the Assessor to be named by the Rector.

18. Quorum.

And be it Enacted, That *Four* shall be a quorum of the Court, the Rector or the Dean or the Principal being always one of such quorum, and that the Court shall at all times have power to adjourn.

19. Rector to preside, with casting vote.

And be it Enacted, That the Rector shall preside in the Court, and shall have a deliberative and a casting vote, and in his absence the Dean shall preside, and in the absence of the Rector and the Dean, the Principal shall preside, the Dean or Principal so presiding having only a deliberative vote; but in the event of an equality of votes, in the absence of the Rector, the consideration of the matter before the Court shall be adjourned to a day to be fixed by the said Court, whereof the presiding Dean or Principal shall give especial notice to the Rector and the other members of the Court absent (if any be absent) upon the adjournment taking place; and if on such day, on the consideration of such matter being resumed, an equality of votes shall again occur in the absence of the Rector, the Dean or Principal then presiding shall have a casting vote in addition to his deliberative vote.

Casting vote in his absence.

20. Rector of himself no power.

And be it Enacted, That the Rector shall have no power or jurisdiction to pronounce any judgment or deliverance in matters relating to the University, except the judgments and deliverances of the Court, constituted as hereinbefore enacted.

21. Stated annual meeting of the Court.

And be it Enacted, That a Court shall be held statedly once a year, in the month of April on a day and at an hour, to be fixed by the Rector or Rector elect, on application to him by the Principal, and notice of the day and hour so fixed shall be given by the Principal to all the Electors between *Two* and *Four* Weeks previous to the day so fixed.

22. Business of the stated annual meeting of the Court.

And be it Enacted, That at the said stated annual meeting of the Court, the accounts of the University for the year ending on the *Thirty-first* day of *December* preceding shall be examined and audited, and, if approved of by the Court, shall be docqueted and settled by the Members so approving, and a general and conveniently classified Statement of such accounts, showing the receipt and expenditure as well as a stock account, comprising a view of the property possessed by the University and of the income thence arising, and of all burthens thereupon, shall thereafter be printed without delay; and at the said annual meeting a Report of the state of the University during the preceding year, embracing a statement of the number of Students attending the several classes, a list of the Graduates for the year and of such Students as have gained prizes, and an account of what improvements have been made in the University, accompanied with whatever observations the Court shall deem called for or proper, shall also be prepared and shall thereafter be printed without delay; and a printed copy of such Statement of accounts and of such Report shall be sent to the Chancellor, to each of the Professors and to each Member of the Town Council of Glasgow, and both documents shall further be made public in such other manner as the Court shall direct; and at the

Accounts and annual Report to be published.

the said stated annual meeting of the Court, an account shall be laid before the meeting of the salaries payable for the current year, dating from the said *Thirty-first* day of *December* preceding, and the said Court shall give authority to pay the same or such part thereof as shall be due: Provided always, That at the said annual meeting any other matter competent to the said Court may be taken into consideration and decided.

23. Special meetings of the Court, and how summoned.

And be it Enacted, That the Rector or the Dean or the Principal shall at all times have power to summon a special meeting of the Court, by causing notice in writing to be given to the several Members of the Court *Forty-eight* Hours previous to such meeting.

24. Property of the University vested in the Court.

And be it Enacted, That the Court shall be a body corporate by the name and style of the "University Court of the University of Glasgow," and shall in their said name have power to acquire and hold all kinds of property and effects; and the whole property and revenue now belonging, or which shall belong to the University or to the Faculty (which body is now hereby abolished), or to one or more Members of the University, in trust for the University, and the whole right of management and disposal thereof, shall, ipso jure, and without any deed of transfer or conveyance as aforesaid, be vested exclusively in the Court, in trust for University purposes, from and after the first stated meeting of the said Court and in all time coming, and shall transmit to the successors in office of the present members, without charter, disposition, service, sasine, confirmation or other form known in law; and the said Court shall, from and after the said date, have power to effect sales, to grant conveyances, charters or other deeds, and to grant leases for any period not exceeding *Nineteen* Years of any subject belonging to the University, to draw rents and generally all the powers necessary for the management, administration and disposal of property: Provided always, That no sales, feus or other alienations of any of the heritable property belonging to the University shall be valid unless such feus or other alienations have been effected by public roup or auction, after being advertised in *Two* of the Glasgow Newspapers, and intimated on the College Gates between *Two* and *Four* Weeks previous to such public roup or auction.

25. Donations to vest in Court except donor order to the contrary.

And be it Enacted, That all donations and contributions of any estate, real or personal, heritable or moveable, either in aid of the funds of the University or for endowing Professorships, Lectureships, Bursaries or Exhibitions, or in order that the same may be kept or exhibited in Museums, Libraries or Halls of the University, shall, unless the donor shall otherwise direct, vest in the Court for the purposes expressed by the donor, and the Court shall give such directions as they shall think proper in order to carry such purpose into full effect.

26. Court to sue and be sued.

And be it Enacted, That the said Court shall and may sue and be sued in their said name of the "University Court of the University of Glasgow."

27. Common Seal, custody thereof.

And be it Enacted, That there shall be a Common Seal of the University, of which the Principal shall be Custodier; and the Court shall have power to make and change the same from time to time as to the said Court shall seem fit.

28. Rules and Regulations to be instituted by the Court and Bye-laws.

And be it Enacted, That the Court shall have the exclusive power to institute general Rules and Regulations for the government of the University; and so far as is not inconsistent with the enactments of this Act, or repugnant to the laws and statutes of this realm, to institute Bye-laws to regulate the Senate, the election of the Rector, the induction of Professors, and the admission and admission-examinations of Students, Exhibitioners and Bursars.

29. Court may alter the internal system of the University.

AND whereas it is expedient that the Court, constituted as hereinbefore enacted, should be intrusted with the regulation of the internal system of the University, and the alteration and modification of the details thereof, as from time to time experience may show to be necessary; BE it therefore Enacted, That the said Court shall have power to adopt and carry into effect from time to time Regulations for the granting of Degrees, for the curricula of study, for the mode of teaching, for the hours and extent of teaching, and for the extent of the Session, or for otherwise modifying the internal system of the University, as the Court may deem expedient: Provided always, That no such Regulations shall be instituted till after the Court shall have ascertained and recorded the opinion of the Senate thereupon: And provided further, That the Court shall have no power to permit in the University a shorter Session than Five Months for the Faculty of Theology, and than Six Months for the Faculties of Medicine and Arts.

30. Court to fix class and graduation Fees.

And be it Enacted, That the Court shall alone have power to fix and regulate from time to time the Fees payable by the Students to the several Professors and Lecturers in the University, and also the Fees for graduation.

31. Court to make Regulations for Libraries and Museums.

And be it Enacted, That the Court shall have power to institute and to review Regulations for the Libraries and for the Museums, including all collections of specimens, models, and apparatus belonging to the University.

32. Court to provide and keep in repair Houses, &c.

And be it Enacted, That the Court shall provide and keep in repair for each of the Members of the Senate, fit houses for their residence in the University; and that in each and every year when any Member of

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of the Senate shall not be in possession of such house, the Court may, if they think proper, order to be paid to him out of the funds of the University any sum not exceeding per annum, in lieu of such house; and the Court shall from time to time make such order as they shall think proper as to the Member of the Senate who shall be permitted to occupy any of the houses, saving the rights of the present occupants.

33. New buildings may be erected by Court.

And be it Enacted, That it shall be lawful for the Court, if they see cause, from time to time to build such other fit and proper houses within the University grounds, as may be necessary for the accommodation of those Members of the Senate who cannot be provided with houses in the existing buildings, and such other halls, class-rooms and buildings as may be required within the said grounds, and to order the amount of the expense of all such erections to be paid out of the funds of the University, provided that previous to such expense being incurred, proper plans of such erections, and the estimate of the expense thereof, shall have been laid before the Rector for the time being; and such Rector shall have attested, by his signature to the plans and estimates, his approval of such erections being made, otherwise none of the funds of the University shall be applied towards paying the Money which may have been expended in such erections.

34. Whose representations to be received by the Court.

And be it Enacted, That the Court shall have power to receive, dispose of and decide upon all representations from the Senate, Professors, Lecturers, Graduates or Students in the University, or from the Court or Senate of any other University, and to rectify any abuses within the said University to which the attention of the Court may be so called.

35. Chancellor, &c. may visit classes.

And be it Enacted, That the Chancellor and all the Members of the Court shall individually and collectively be at all times entitled to visit any class in the University during the hours of instruction.

36. Visitations of the classes by the Principal.

And be it Enacted, That the Principal shall visit each class within the University at least twice every Session, and shall at every stated annual meeting of the Court give in a written report of such visitations, with whatever observations thereupon he shall judge called for or proper.

37. Principal, how to act in case of a delinquent Professor or Lecturer.

And be it Enacted, That the Principal, immediately on coming to the knowledge of any dereliction of duty in a Professor or Lecturer in the University, shall first privately admonish such Professor or Lecturer, and if admonition prove ineffectual, the Principal shall forthwith summon a special meeting of the Court, for the consideration of such dereliction of duty.

38.

Principal subject to the Court.

Restrictions on the Principal's vote in the Court.

And be it Enacted, That the Court, exclusive of the Principal, shall have and exercise the same judicial authority over the Principal as the Court shall have over the other Professors; and the Principal shall in no case be entitled to have a voice in the voting away in the Court of Money of which he is to receive any part.

39.

Professors and Lecturers to be under the superintendence of the Court.

And be it Enacted, That the Court shall have the superintendence of all Professors and Lecturers within the University, with power to enjoin on any or every such Professor and Lecturer the punctual observance of any regulation enacted in regard to the mode of teaching in the University, and the due performance of any other duties imposed on the Professors and Lecturers, and the Court shall, if the said Court think fit, instruct the Principal to see that such injunction be put in force, and to report thereupon.

40.

Court may censure a Professor or Lecturer or suspend him for a year.

And be it Enacted, That the Court shall have power, after due investigation, and after hearing all parties interested, to censure a Professor or Lecturer, or to suspend him from his office and from the exercise of all privileges, and from the receipt of all emoluments thereunto belonging, for a period not exceeding a Year, on account of contumacy, of neglect or violation of duty, or for immoral conduct, and during such suspension the said Court shall have power to appoint a substitute.

41.

Court may suspend a Professor for more than a year, and with assent of the Chancellor may depose.

And be it Enacted, That the Court shall have the further power, after due inquiry and trial, in which all parties interested shall be duly summoned and fully heard, to suspend a Professor or Lecturer from his office, and from the exercise of all privileges, and the receipt of all emoluments thereunto belonging, for a longer period than a Year, or to deprive him altogether of his office, and of all privileges and emoluments thereto belonging, in all time coming, on account of neglect or violation of duty after repeated admonition, or for grossly immoral conduct: Provided always, That in the case of a Professor or Lecturer so to be deprived of office, the sentence of the said Court shall receive the assent of the Chancellor.

42.

A Professor having no class for two years, if not infirm, shall be held to have resigned;

but if infirm, Rectorial Court may appoint a substitute.

And be it Enacted, That if any Professor in the University shall fail to have and teach a regular class in his proper department during any *Two* successive years, except when prevented by sickness, bad health, old age, insanity or other infirmity, certified by *Two* medical practitioners nominated by the Court, such Professor shall ipso facto be held to have resigned his Professorship at the end of the second year of such failure, and the same shall be filled up according to law: Provided always, That in the event of any Professor in the University becoming unfit to lecture or teach in consequence of infirmity as aforesaid, the Court having ascertained the inability of such Professor to lecture or teach by the report of *Two* medical practitioners nominated by

by the said Court, shall have power to appoint a competent substitute, and to allot to the substitute appointed such portion of the emoluments belonging to the Professorship as in the circumstances of the case shall seem to the Court equitable.

43. New Professorships may be endowed.

And be it Enacted, That it shall be lawful for His Majesty to institute additional Professorships in the University, and each Professor who shall be appointed to fill any such new Professorship shall thereupon be entitled to be a Member of the Senate, and shall enjoy all the privileges to which Members of the Senate are entitled, and shall receive such salary as the Court shall appoint; and it shall be lawful for any individual or public body to institute, subject to the approbation of the Court, such Professorships as shall be endowed by them respectively.

44. Lecturers may be appointed, how.

And be it Enacted, That the Court shall have power to appoint Lecturers in any branch for which there is not a regular Professorship, after ascertaining and recording the opinion of the Senate; and the Court shall have the exclusive power to give or to refuse sanction to the institution of Lectureships in any such branch by any private party or public body; and no Lecturer shall be appointed so as to be a bar to the institution of a Professorship, or to the appointment of a Professor for the branch to be taught by such Lecturer; and the period of every appointment of the Lecturers appointed or sanctioned by the Court in virtue of this Act shall terminate at the next following annual meeting of the Court.

45. Lecturers may have certain Saaries.

And be it Enacted, That the Court shall have power to give to Lecturers appointed by the said Court salaries not exceeding Pounds a Year to each; provided that the salary, apart from fees of any Lecturer for any one year, shall not exceed for each Student's giving in such year stated attendance in the regular class or classes of such Lecturer in his proper department; and that if the Students so giving attendance in any one year shall be fewer in number, then such Lecturer shall not receive any salary whatever for such year.

46. Medical Professors to be joint examiners for Medical Degrees.

And be it Enacted, That all the present and future Medical Professors shall be joint examiners for medical degrees, and that all the Members of the Faculty of Arts, together with the Professors of Chemistry, shall be joint examiners for the degree of Master of Arts; and that any Student of the University who shall be desirous of obtaining a medical degree, whether as Master of Surgery or Doctor of Medicine, shall, before such medical degree shall be granted to him, produce written certificates that such Student had been regularly examined.

47. Fee to Examiners.

And be it Enacted, That every Person who shall be an Examiner, and shall have been present during the whole time at each of the examinations for a degree undergone by any Student, shall be entitled to have and receive, out of the funds of the University, by way of fee, the sum of *One* Pound for each examination.

48. Court may cite parties and witnesses.

And be it Enacted, That the Court shall, in all trials and investigations of complaints which may come before them, in virtue of the provisions in this Act contained, have power to cite parties before them, and witnesses to give evidence upon oath, or otherwise, regarding the subject matter of such trials or investigations; and all the meetings of the Court, when sitting in a judicial capacity, shall be open to the Professors, Lecturers, Graduates and Students in the said University, unless in the opinion of the Court the peculiar nature of the case shall render such degree of publicity improper.

When an open Court.

49. Senate, how constituted.

And be it Enacted, That the Senate of the University shall consist of the Principal and all the Professors in the University, and a quorum of the Senate shall consist of at least One-half thereof; that the Principal shall preside at the meetings of the Senate, and, in the absence of the Principal, the senior Professor then present, and the President shall not only have his own deliberative vote, but, in cases of equality, a casting vote also.

50. Appeal from the Senate to the Court.

And be it Enacted, That all decisions of the Senate shall be subject to appeal to the Court, except as hereinafter provided.

51. Senate may propose regulations to the Court.

And be it Enacted, That the Senate shall have power to originate and recommend to the Court any regulations for the granting of degrees for the curricula of study, for the mode of teaching, or for otherwise modifying the internal system of the University, and all such regulations thus originating and recommended, shall take effect upon receiving the sanction and consent of the Court; and the Senate shall also be entitled to submit for the consideration of the Court any proposal intended to promote, in any manner, the utility of the University.

52. All degrees to be granted by the Senate.

And be it Enacted, That all the power of conferring degrees in any lawful faculty heretofore possessed by the University, shall be vested in the Senate of the University, constituted as hereinbefore enacted, without appeal to the Court, and the Senate shall be entitled to confer their degrees in any order in which they may think expedient, and in the same way as is done in other Universities in Scotland: Provided always, That the regulations for granting such degrees, in force at the time, be duly observed by the Senate.

53. Ordinary discipline of the Students to be in the Senate.

And be it Enacted, That the ordinary discipline of the Students in the University, with power of dismissal and expulsion for immoral, disorderly

disorderly or contumacious conduct, shall be vested in the Senate, without appeal to the Court, except from Students, on account of being dismissed from any class or classes, or of being expelled from the University, and each Professor and Lecturer shall have the right of dismissing Students from his own class for disorderly or contumacious conduct therein, subject to appeal to the Senate and Court.

54. Senate to appoint Librarians, &c. annually.

And be it Enacted, That the right of appointment, superintendence and dismissal of the Librarians and Servants and subordinate Officers of the University, excepting the Factor or other officer appointed by the Court, shall belong to the Senate: Provided always, That no such appointments by the Senate shall be made for a longer period than *One* Year.

55. Appointment of Bursaries now in Principal or any of the Professors ex officio to be in the Senate.

AND whereas the Principal and Professors of and in the University, or certain of their number, have or may have in virtue of their offices the right of patronage and appointment on mortifications for Bursaries, Exhibitions and Lectureships in the said University: AND whereas it is expedient that such rights be vested in the Senate of the University; BE it therefore Enacted, That all and every such gift, patronage or right of appointment now vested in, or which may hereafter be granted to the Principal and Professors, or to any of them, shall belong to and be exercised by the Senate of the University: Provided always, That the Court shall have power to enjoin and require the Senate to fill up any or all of such Bursaries, Exhibitions and Lectureships by competition.

56. Court to appoint Factor.

And be it Enacted, That the Court shall from time to time name a fit and proper Officer to act as Factor for the management of the property belonging to them, and for the adjustment of their accounts, and the payment of all debts due by them; but the said appointment shall never be for a longer period than to the next following stated election of the Rector; and such Factor shall keep regular accounts of his intromissions, distinguishing therein the receipts and payments made on account of any separate property held for special purposes.

57. Payments to to be made only by order.

And be it Enacted, That no Money shall be paid on account of the Court, save only upon an order in writing of the Court, or of a Committee of their number specially authorized for that purpose; and the order shall specify as near as may be the particulars of each account for which such payment shall be intended to be made.

58. Not more than 100*l.* to be retained in hand.

And be it Enacted, That the Factor to be appointed by the Court as aforesaid for the management of their property, shall pay all Monies to be received by him from time to time into one or other of the char-

tered Banks, and no Officers or Servant shall at any time have or retain above *One hundred* Pounds in his hands for more than *Ten* Days, under the penalty of *Ten* per centum on the amount thereof, besides the legal interest, and which penalty shall be recoverable from such Officer or Servant, in any suit before the Judge Ordinary of the bounds, at the instance of the Court.

59. Court and Senate Committees.

And be it Enacted, That it shall be lawful, as well for the Court as for the Senate, to appoint, out of their own respective bodies, from time to time, such or so many Committees, either of a general or special nature, and consisting of such number of Persons as they may think fit, for any purposes which, in the discretion of such Court or Senate, would be better regulated and managed by means of such Committees, and to make such Bye-laws and Regulations for the direction and government of such Committees, and to delegate to them so much of their powers as to the Court or Senate shall seem meet.

60. No Member of Court or Senate to hold office of profit.

And be it Enacted, That no Member of the Court or of the Senate shall be appointed to or hold any office or place of profit as an Officer or Servant, or be directly or indirectly, by himself or his partner, interested in any contract made by the Court.

61. Proceedings to be entered in books.

And be it Enacted, That the Preses of the respective meetings under the authority of this Act, shall order and direct that entries shall be made in books to be kept for that purpose, of all the acts, orders, proceedings and transactions of such meeting, the entry of which acts, orders, proceedings and transactions shall be signed by the Preses of such respective meeting, and the same, when so entered and signed, shall be deemed and taken to be original acts, orders and proceedings, and the same, or extracts therefrom, signed by the Officer to be appointed for that purpose, shall be allowed to be received in evidence in all Courts, and before all Judges, Justices, and others, and every Person who may desire the same may have delivered to him such extracts, paying for every hundred words to be contained therein the sum of *Sixpence*, and so in proportion for any greater or less number of words.

62. Right of ordinary Visitors abolished.

And be it Enacted, That from and after the *passing of this Act*, the ordinary visitors of the said University shall have no right of visitation or title of interfering in the government of the University, or the Members, Students, Officers or Servants of the University, or in the management of the property belonging thereto.

63. Present appointments of Office Bearers, &c. to cease.

And be it Enacted, That the appointment of all Office Bearers, Officers and Servants in the University at the *passing of this Act* shall cease and determine immediately on the appointment of the Office Bearers, Officers, and Servants who are authorized and ordered to be

appointed

appointed for the execution of the duties presently imposed on them, and the powers and privileges of such Office Bearers, Officers, and Servants shall cease accordingly.

64. Rights of Principal and Professors now in office reserved.

And be it Enacted, That nothing herein contained shall be construed to affect or impair the rights of the present Principal, and present Professors of the University, during their lifetime, to the salaries and class fees, if any, belonging to or enjoyed by them.

65. Act may be repealed in present Session.

And be it Enacted, That this Act may be varied, altered or repealed by any Act or Acts to be passed during the present Session of Parliament.

6 WILL. IV.—Sess. 1835.

A

B I L L

For the Regulation of the University of Glasgow.

(Prepared and brought in by Mr. Oswald and Mr. Dunlop.)

Ordered, by The House of Commons, *to be Printed,*
9 *July* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the Regulation of the University of *Glasgow*.

WHEREAS certain Commissioners, by virtue of Commissions issued by his late Majesty King GEORGE the Fourth, dated Twenty-third July and Twenty-eighth September One thousand eight hundred and Twenty-six, and by virtue of a Commission issued by His present Majesty, dated Twelfth October One thousand eight hundred and Thirty, were directed, amongst other things, to report to His Majesty their opinions on the statutes, laws and usages by which the several Universities and Colleges in *Scotland* were governed: Preamble.

And whereas the said Commissioners made a Report to His Majesty, which has, by His Majesty's Command, been laid before Parliament, whereby, amongst other things, it appears that it would tend greatly to the better management of the property of the University of *Glasgow* if such property were vested in a Court to be established for that purpose, and that it is expedient to alter and amend in other respects the laws, statutes and usages by which the said University and the several Members, Students and Officers thereof are governed and regulated;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by Authority of the same, THAT so much of all Acts of Parliament, Royal and other Charters, Grants and Letters Patent, Foundations, Erections and Mortifications now in force relating to the University of *Glasgow*, or to the Members, Students or Officers thereof, or to any body or reputed body corporate of or in the said University, or to the Members, Students or Officers thereof, or any one or more of them, or

1. Laws and Charters inconsistent annulled.

to the Property or Revenue held by or in trust for the said Persons or Bodies, or any of them, and all laws, statutes and usages in so far as the same are inconsistent with or contrary to the provisions of this Act, shall be and the same are hereby Repealed and Annulled.

2. Interpretation.

And be it Enacted, That in the construction of this Act, unless there be something in the subject or context repugnant to such construction, the word "University" shall be construed to mean University of *Glasgow* and College of *Glasgow*, and the word "Court" shall be construed to mean University Court of the University of *Glasgow*; and the word "Senate" shall be construed to mean Senate of the University of *Glasgow*; and the respective words "Chancellor," "Rector," "Principal," "Dean" shall be construed respectively to mean Chancellor, Rector, Principal or Dean of Faculties of the University of *Glasgow*, as the case may be; and the word Assessor shall be construed to mean any Person who shall be elected under this Act to be an Assessor, and as such a Member of the Court; and the word "Officer" shall be construed to mean any person who shall be appointed by the Court to any office in the University; and the word "Servant" shall be construed to mean any person appointed by the Senate to any subordinate office in the University; and that in describing any person or thing, any word importing the singular number shall be construed to mean also several persons or things.

3. Chancellor to be elected by Senate.

And be it Enacted, That the Chancellor shall be elected by the Senate, on a day to be fixed by the Senate, at least Three Months previous to the day of the election, and shall hold his office for life; and that upon any vacancy in the office of Chancellor, another Chancellor shall be elected within Nine Months after such vacancy, and the installation of such Chancellor shall take place within Twelve Months after the occurrence of such vacancy; and that if any person elected Chancellor shall fail to be installed within the said period of Twelve Months, he shall thereupon *ipso facto* be held to have resigned his office, and the same shall be held to be vacant as at the expiry of the said Twelve Months, and another Chancellor shall be elected.

4. Rector to be elected by the Principal, Professors, Lecturers, Graduates and Students.

And be it Enacted, That the Rector shall be elected by the Principal, Professors, Lecturers, Graduates and matriculated Students in the University, and shall continue Rector for Four Years; and the first election shall take place on the Sixteenth day of November in the year One thousand eight hundred and Thirty-five, and the next and each following stated election shall take place on the Sixteenth day of November in every Fourth year thereafter.

5. Who Preses at the election of the Rector.

And be it Enacted, That at every Eleetion of a Rector, the Principal shall be the Preses of the Election, and in his absence the Professor of the University then present, who shall for the greatest length of time have

have been a Professor in the University, shall be the Preses; and in the absence of the Principal and all the Professors, such Person as the Electors present shall name shall be Preses.

6. Students who give regular attendance and Graduates enrolled to vote at election of the Rector.

And be it Enacted, That no Student shall be allowed to vote at any Election of the Rector, unless he shall be *bonâ fide* attending one class at least of the University; and no Graduate shall be allowed to vote at any such Election, unless, at least a Week previous to his first voting as a Graduate, he shall have had his name enrolled as an Elector, in a Book to be kept for that purpose, and shall also have paid the sum of Five Shillings towards the funds of the University.

7. Rector when to be installed.

And be it Enacted, That the installation of the Rector shall take place within Three Months after his election; and that if any Person elected Rector shall fail to be installed within that period, or being installed, he shall fail to attend at least one meeting of the Court in any year, reckoning the year from the day of his election, he shall thereupon *ipso facto* be held to have resigned the office of Rector, and another Rector shall be elected in his stead.

8. Occasional election of the Rector.

And be it Enacted, That in the event of a vacancy occurring in the office of Rector, at any other than the stated period when a vacancy in such office occurs by lapse of time, another Rector shall be elected, to remain in office until the next stated election of the Rector; and in the case of such vacancy coming to the knowledge of the Senate during any Winter Session, and before the last Three Weeks thereof, the election of another Rector shall take place during such Winter Session, on a day to be fixed by the Senate; but in case of any such vacancy occurring at any other time, the election of the Rector shall take place on the Sixteenth day of November following.

9. Rector's obligation by acceptance of office.

And be it Enacted, That any Person being elected Rector shall upon acceptance of the office of Rector, be held to undertake to perform in person the duties thereof, and more especially to be present at the stated meetings of the Court, to take place as hereinafter provided, and that no Rector shall be entitled to appoint a Vice-Rector to act for him.

10. Dean elected by the Senate.

And be it Enacted, That the Dean shall be elected by the Senate, on the First Tuesday after the stated respective days of election of the Rector, and shall continue Dean for Four Years; and the installation of the Dean shall take place within Three Months after his election; and that if any Person elected Dean shall fail to be installed within that period, he shall thereupon *ipso facto* be held to have resigned the office of Dean, and another Dean shall be elected in his stead.

11. Assessor to be chosen by Senate and Graduates.

And be it Enacted, That on the stated respective days of Election of the Rector, the Members of the Senate and the said Graduates enrolled as before provided, shall elect an Assessor, who shall continue Assessor and be a Member of the Court, under the provisions of this Act, for Four Years; and at every election of an Assessor by the Senate and Graduates, the Preses of such election shall be the person present at such election, who would have been entitled to be Preses if such election had been an election for the Office of Rector.

12. Occasional election of the Dean or Assessor.

And be it Enacted, That in the event of a vacancy occurring in the respective offices of Dean or of the Assessor to be elected by the Senate and Graduates, in case such vacancy shall happen more than Six Months prior to the next following stated election to the said respective offices, another Dean or Assessor, as the case may be, shall be by the Persons entitled to vote at such election, elected within Six Months after such vacancy shall occur, at a time and place to be fixed by the Senate; and notice shall be given of such intended election to fill up such office of Dean or Assessor as the case may be, in the same manner as is required by this Act with respect to any stated election for electing a Dean or such Assessor, and the Person elected to supply such vacancy shall remain in office till the next stated election to such office.

13. Assessors to be appointed by His Majesty.

And be it Enacted, That it shall be lawful for His Majesty to appoint Two fit and proper Persons to be Assessors under this Act, who shall remain in office for the period of Four Years after their appointment, and from time to time to supply any vacancy which may arise by the death or resignation of any Person so appointed; and the Persons so appointed shall be Members of the Court under the provisions of this Act.

14. Assessor to be appointed by the Town Council of Glasgow.

And be it Enacted, That the Magistrates and Town Council of the City of *Glasgow* shall and they are hereby required to meet on the stated day of the election of Rector, or on some day not being more than Seven Days thereafter, in the present and every Fourth Year thereafter, and to elect a fit and proper Person to be Assessor under this Act; and in case any vacancy shall arise in the office of such Assessor at any time between the stated days for the election of such Assessor, the said Magistrates and Town Council shall supply the same within One Month after it shall occur, and the Person appointed to supply such vacancy shall remain in office for the same time that the Person in whose place he is appointed would have remained in office; and the Person so appointed Assessor shall be a Member of the Court under the Provisions of this Act.

15. At election of Chancellor,

And be it Enacted, That at every Election of a Chancellor, Rector or Dean, or of Assessor to be appointed by the Members of the Senate

Senate and the said Graduates, the Mover or Seconder of every Person proposed as a Candidate, shall state that he has applied to the Person proposed for and received his consent so to propose him, and that such Person has authorized him to state to the Meeting that if elected he will accept of the office for which he is proposed, and discharge the duties of the same.

&c. Proposers to state that Candidates will accept.

16.

And be it Enacted, That the respective offices of Chancellor, Rector, Dean and Assessor shall each be held by a different Person, and none of these offices shall be held by a Principal or Professor in the University.

Chancellor, Rector, Dean and Assessor to be different persons.

17.

And be it Enacted, That the Members of the Court shall be the several Persons hereinafter named or referred to; (that is to say) the Rector, the Dean, the Principal, the two Assessors to be appointed by His Majesty, the Assessor to be named by the Members of the Senate and the said Graduates, and the Assessor to be appointed by the Magistrates and Town Council of the city of *Glasgow*; and that Four shall be a quorum of the Court; the Rector or the Dean or the Principal being always one of such quorum.

Court, Members of.

18.

And be it Enacted, That a stated annual Meeting of the Court shall be held on the first Monday of April in each and every year after the passing of this Act; and that at the said stated Court, the Person who shall have been appointed by the Court to audit the accounts of the University for the preceding year, which shall for that purpose be taken to have ended on the Thirty-first day of December preceding, shall deliver to the Preses of the Court his Report on the said Accounts; and the said Report, if approved of by the Court, shall be docqueted, and then signed by the Members of the Court so approving; and the Court shall in each and every year cause a general and conveniently classified Statement of the said accounts, showing the receipt and expenditure, as also a stock account, comprising a view of the property and revenue possessed by the University, and of all burthens thereupon, and also a general Report of the state of the University as a seat of learning during the preceding year; and which Report shall specify the number of Students attending the several classes, and shall contain a list of the names of the Graduates for the year and of such Students as have gained prizes, and shall also state what improvements or alterations have been made, either in the educational system or in the management of the property or revenue of the University during the then past year; and in such Report shall also be contained whatever other observations concerning the interest of the University the Court shall deem called for or proper; and a printed copy of such Report and of such Statement shall be sent to the Chancellor and to each of the Members of the Court, the Senate and the Town Council of *Glasgow*; and the said Report and Statement

Stated Meeting of the Court.

Business of the stated Meeting of the Court.

Accounts and annual Report to be published.

shall also be, if the Court shall think fit, inserted in any of the Newspapers printed in *Glasgow*; and at the said stated meeting of the Court, the Officer appointed for such purpose shall lay before the Court a Statement of all sums of money which will become to be paid or payable out of the property vested in the Court, including, amongst other items, the respective Salaries payable to the respective Members of the Senate and to any Officer or Servant for the current year, which shall for that purpose be taken to have commenced from the Thirty-first day of December preceding; and the Court shall thereupon authorize the Officer appointed for such purpose to pay the said sums of money, or such part thereof as shall be thought expedient.

19. Rector to be Preses of the Court.

And be it Enacted, That the Rector, when present, shall be Preses of the Court, and in his absence the Dean shall be the Preses, and in the absence of the Rector and the Dean the Principal shall be the Preses.

20. Persons going out of office may be re-elected.

And be it Enacted, That all Persons going out of office by lapse of time under any of the provisions of this Act, may be immediately re-elected.

21. Property of the University vested in the Court.

And be it Enacted, That the Court shall have power to acquire and hold all kinds of property, heritable or moveable, and any right or interest therein or thereto, and that the whole property and revenue now belonging to the University, whether the same be now held by or vested in all or one or more Members, Officers or Students of or in the University, or in any other Persons, either as a Corporate Body or as individuals in trust for the University, or for all or any of the Members, Officers, Students or other Person connected with the University, or for University purposes; and from and after the first stated meeting of the Court, and in all time coming, the whole right of management and disposal of such property and revenue shall, *ipso jure*, and without any deed of transfer or conveyance, be vested or held exclusively in or by the Court, in trust for the same or similar purposes to which such property and revenue has or ought to have been applied, and the successors in office of the first members of the Court shall hold the said property and revenue, and all other property and revenue acquired by the Court, and shall transmit the same to their successors without charter, disposition, service, sasine, confirmation or other form known in law; and the Court shall, from and after the said first stated meeting, have power to sue and be sued in respect of such property and revenue, to effect sales, to grant conveyances, charters or other deeds, and to grant leases of all or any part of such property and revenue for any period not exceeding Nineteen Years, to draw the rents and profits thereof, and generally the Court shall have over the said property and revenue all the powers necessary for the management and administration thereof: Provided always, That no sales, feus

611.

or other alienations of any part thereof which may be of the nature of heritable property, shall be valid unless such sales, feus or other alienations have been effected by public roup or auction, after being advertised between Two and Four Weeks previous to such public roup or auction in Two of the *Glasgow* Newspapers.

22. Donations vested in the Court, except Donor shall order to the contrary.

And be it Enacted, That all donations and contributions of any property, heritable or moveable, either in aid of the funds of the University or for endowing Professorships, Lectureships, Bursaries or Exhibitions, or in order that the same may be kept or exhibited in the Museums, Libraries or Halls of the University, shall, unless the donor shall otherwise direct, vest in the Court for the purposes expressed by the donor, and the Court shall give such directions as it shall think proper in order to carry such purposes into full effect.

23. Rules and Regulations to be instituted by the Court. and Bye laws.

And be it Enacted, That the Court shall have the exclusive power to institute general Rules and Regulations for the government of the Members, Officers and Students of the University; and so far as is not inconsistent with the enactments of this Act, or repugnant to the laws and statutes of this realm, to institute Bye-laws to regulate the Senate, the respective elections of the Chancellor, Rector, Dean and Assessors, the induction of the Professors, and the admission, and admission-examinations of any Student, Exhibitioner or Bursar.

24. Court may alter the educational system of the University.

And be it Enacted, That the Court shall have power to adopt and carry into effect from time to time such Rules or Regulations for the management and preservation of the Libraries and Museums, including all Collections of Specimens, Models and Apparatus belonging to the University, for the granting of any Degree, for the curricula of study, for the mode of teaching, for the hours and extent of teaching, and for fixing from time to time the Fees payable by the Students to the several Professors and Lecturers in the University, and also the Fees to be paid for a Degree for the extent of the Session, or for otherwise modifying the educational system of the University, as the Court may deem expedient: Provided always, That no such Rules or Regulations shall be of any validity until after the Court shall have obtained the opinion of the Senate thereupon; and provided further, That the Court shall have no power to permit in the University a shorter Session than Five Months for the faculty of Theology, or than Six Months for the faculties of Medicine and Arts.

25. Court to provide and keep in repair Houses, &c.

And be it Enacted, That the Court shall provide and keep in repair for each and every of the Principal and Professors a fit dwelling-house within the University grounds, for his residence therein; and that in each and every year, when any such Principal or Professor shall not be in possession of such house, the Court shall have power to order to be paid to him, out of the funds of the University, any sum not

exceeding per annum, in lieu of such house; and the Court shall from time to time make such orders as it shall think proper as to the persons who shall be permitted to occupy any of the houses belonging to the University; saving always and reserving and without prejudice to the rights of the present occupants.

26. New buildings may be erected by the Court.

And be it Enacted, That it shall be lawful for the Court, if they see cause, from time to time to build such other fit and proper dwelling-houses as may be necessary for the accommodation of such of the Principal and Professors as cannot be provided with houses in the existing buildings, and also to build such other halls, class-rooms and buildings as may be required within the said grounds, and to order the amount of the expense of all such erections to be paid out of the funds of the University.

27. Visitations of the classes.

And be it Enacted, That the Principal shall visit each class within the University at least twice every Session, and shall at each such visit remain at least an Hour in such class, and shall at every stated meeting of the Court give in a written report of such visit, accompanied with whatever observations touching such visits he shall judge called for; and that it shall be lawful for the Chancellor, and each and every Member of the Court and of the Senate to visit any class in the University during the hours of instruction.

Chancellor, &c. may visit the Classes.

28. Principal, how to act in case of a delinquent Professor or Lecturer.

And be it Enacted, That the Principal, immediately on coming to the knowledge of any dereliction of duty in a Professor or Lecturer in the University, shall first privately admonish such Professor or Lecturer, and if such admonition shall prove ineffectual, the Principal shall, as soon as may be, bring such matter before the Court, for the consideration of the Court.

29. Principal subject to the Court.

Restrictions on the Principal's vote in the Court.

And be it Enacted, That after the passing of this Act the Court shall have and exercise over the Principal the same jurisdiction as the Court has over the other Professors of the University; and that the Principal shall in no case be entitled to have a voice in the Court when any question shall come before the Court in which it shall appear that he is personally interested therein.

30. Court may deprive any Graduate of his Degree.

And be it Enacted, That the Court shall have power to deprive any Graduate of the University of his Degree in any faculty for immoral or other conduct unbecoming a Graduate, upon petition to that effect from the Faculty in which such Graduate has obtained his Degree, and proof to the satisfaction of the Court of the alleged misconduct.

31. Court may censure a Professor or Lecturer or suspend him for a year.

And be it Enacted, That the Court shall have power, after due investigation, and after hearing all parties interested, to censure a Professor or Lecturer, or to suspend him from his office and from the exercise

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exercise of all privileges, and from the receipt of all emoluments thereunto belonging, for a period not exceeding a Year, on account of contumacy, of neglect or violation of duty, or for immoral conduct; and during such suspension the said Court shall have power to appoint a substitute.

32. Court may suspend a Professor for more than a year, and with assent of the Chancellor may depose.

And be it Enacted, That the Court shall have the further power, after due inquiry and trial, in which all parties interested shall be duly summoned and fully heard, to suspend a Professor or Lecturer from his office, and from the exercise of all privileges, and the receipt of all emoluments thereunto belonging, for a longer period than a Year, or to deprive him altogether of his office, and of all privileges and emoluments thereto belonging, in all time coming, on account of neglect or violation of duty, after repeated admonition, or for grossly immoral conduct: Provided always, That in the case of a Professor or Lecturer so to be deprived of office, the sentence of the said Court shall receive the assent of the Chancellor.

33. A Professor having no class for two years, shall be held to have resigned;

but if infirm, Court may appoint a substitute.

And be it Enacted, That if any Professor in the University shall fail to have and teach a regular class in his proper department during any Two successive Years, except when prevented by sickness or other infirmity, which sickness or other infirmity shall alone be ascertained or ascertainable by the certificate of Two Medical Practitioners to be nominated by the Court, such Professor shall *ipso facto* be held to have resigned his Professorship at the end of the second year of such failure, and the same shall be filled up in like manner as the same would have been filled up if such Professor had been dead: Provided always, That in the event of any Professor in the University becoming unfit to lecture or teach in consequence of sickness or other infirmity as aforesaid, the Court having ascertained the inability of such Professor to lecture or teach by the report of Two Medical Practitioners who shall be nominated by the Court, shall have power to appoint a competent substitute, and to allot to the substitute appointed such portion of the emoluments belonging to the Professorship as in the circumstances of the case shall seem to the Court to be equitable.

34. Professors of a certain age may retire.

And be it Enacted, That the Principal or any Professor on completing the Sixty-fifth year of his age, may, with consent of the Court, retire from his office, and the Court shall have power to make to such Principal or Professor so retiring a yearly allowance for life of such amount as may under the circumstances to the Court seem equitable; and the Principal or any Professor on the completion of the Seventieth Year of his age may retire, or in the event of his declining to retire, may be superseded by the Court: Provided always, That the Court shall make such yearly allowance for life to such Principal or Professor so retiring or being so superseded as last mentioned, as may under the circumstances to the Court seem equitable, not being less than

and provided always, That the Court shall have power to grant to a retired Professor the title of Emeritus Professor, with or without a seat and a voice in the Senate.

35. Endowments of a certain amount to be secured before any new Professorship is instituted.

And be it Enacted, That no new Professorship shall be instituted in the University, unless an Endowment secured to the satisfaction of the Court be first provided, affording at least per Annum, if the Professorship be in the Faculty of Theology, and at least per annum if the Professorship be in any other Faculty; and in the event of the funds of the University being, in the opinion of the Court, adequate to the endowment of any new Professorship, the institution of which the Court may think desirable, or funds being otherwise provided for that purpose to the satisfaction of the Court, the Court shall have power to apply to His Majesty by petition, praying His Majesty to institute such Professorship; and it shall be lawful to His Majesty to institute such Professorship accordingly: Provided always, That the institution of such new Professorship, if in any branch for which there is already a Professorship in the University, shall be made only with the consent and approbation of the Chancellor; and in all cases the Court shall have power to give to such new Professorships the name of the founders.

36. Lecturers may be appointed, how.

And be it Enacted, That the Court shall have power, after obtaining the opinion of the Faculty in which such Professorship is included, to appoint Lecturers in any branch of education for which there shall not be a Professorship; and that the Court shall have the exclusive power to give or to refuse the sanction of the University to the institution of Lectureships in any such branch of education by any private party; and that the period of every appointment of a Lecturer so appointed or sanctioned as aforesaid, shall terminate at the first stated annual meeting of the Court, which shall take place after the next ensuing stated election of a Rector.

37. Lecturers may have certain salaries.

And be it Enacted, That the Court shall have power to give to any Lecturer to be appointed by the said Court, such salary, not exceeding a year: Provided always, That any Lecturer who shall fail to have and teach a class in the department to which he is appointed during a whole year, except from sickness or infirmity, to be certified in the same manner as in the case of a Professor, shall not be entitled to or receive any salary for such year.

38. Appointment to certain Professorships to be by public competition.

AND whereas the power of appointing to certain Professorships in the University has hitherto been vested in the Principal and certain of the Professors; BE it Enacted, That after the passing of this Act, all such Professorships shall be filled up by the Court in the manner hereinafter described; (that is to say) on a vacancy occurring in any such Professorship, notice of such vacancy having occurred, and an invitation to candidates

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candidates to come forward, shall be given by the Principal by notice put up on the College gates, and by Three Advertisements in one or other of the *Edinburgh* Newspapers, and by Three Advertisements in one or other of the *Glasgow* Newspapers, and by Three Advertisements in one or other of the *Aberdeen* Newspapers, and such other means of making such notice and invitation public shall be adopted as the Court shall think proper; and all such Advertisements shall be published within One Month after such vacancy shall become known to the Principal; and a meeting of the Court shall be held not less than Six Weeks, nor more than Three Months after the occurrence of such vacancy shall become known to the Principal; the time and place of which meeting shall be specified in the said Advertisements; and notice thereof also given by written or printed intimations to all the members of the Court, One Month at least before such meeting shall be held; and if at the said meeting of the Court the members present shall unanimously agree to appoint any individual to the vacant Professorship, such individual shall be by the Court declared to be duly appointed, but if the Court shall not at the said meeting unanimously agree to appoint some individual to such vacant Professorship, the vacancy shall be filled up by competition in the manner hereinafter specified; (that is to say) the Court shall at such last-mentioned meeting, fix a day not earlier than Six Weeks nor later than Three Months after such meeting, for the commencement of such competition; and notice of the day so fixed shall be given by the Principal to all Persons whom he shall know to be candidates, and also on the College gates, and by Advertisements in the same manner as is hereinbefore provided with respect to the notice of the vacancy having occurred; and all such notices shall be given and such Advertisements published at least One Month before the day appointed for the commencement of such competition.

39. Who may be Candidates.

And be it Enacted, That every Person shall be admitted to competition for the vacant Professorship, provided he shall furnish to the Court testimonials satisfactory to the said Court as to his fitness for the office of Professor: Provided always, That in the case of the Professorship of Divinity, the Candidate shall be an ordained Minister of the Church of *Scotland* or a licensed Preacher of the said Church.

40. Court to appoint Examiners.

And be it Enacted, That the Court shall have power to nominate such Persons to be Examiners to conduct every such competition as they shall think proper; and in order to induce qualified Persons to act as such Examiners, the Court shall at the meeting at which they are appointed to fix the day for the commencement of the competition, invite as Examiners the Professors, if any, in the Department corresponding to that in which the vacancy has occurred, in the Universities of *Saint Andrew's, Aberdeen* and *Edinburgh*: Provided always, That the number of acting Examiners shall in no case be less than Three, nor more than Seven.

41.

Examinations, how to be conducted.

And be it Enacted, That the Examinations in such competitions shall be conducted under the superintendence of the Court, and in presence of the Court, of the Senate, and of the Graduates of the Faculty in which the vacant Professorship is included; and the Examiners shall try all the Candidates as to the variety and extent of their attainments in the department of the vacant Professorship, and as to their fitness for communicating instruction therein, and shall receive any original printed or published work in the department of the vacant Professorship as any Candidate being the Author thereof shall submit for their consideration; and the Candidate found best qualified by an absolute majority of all the acting Examiners, after due consideration of the variety and extent of the attainments of all the Candidates in the department of the vacant Professorship, and their fitness for communicating instruction therein, and the merits of such printed or published works as aforesaid, shall be appointed to the vacant Professorship by the Court; and if, upon the Votes of the acting Examiners being taken, no Candidate have an absolute majority of the Votes of all the acting Examiners, the Examination shall be resumed of all the Candidates except the Candidate having the smallest number of Votes, and so on, till some one Candidate shall have an absolute majority of the Votes of all the acting Examiners, in which case such Candidate shall be by the Court declared to be duly elected.

42.

Court to appoint Officer to receive Rents and Income.

And be it Enacted, That the Court shall from time to time name a fit and proper Officer to receive the Rents, Profits or Income of the Property or Revenue vested in or held by the Court; and such Officer shall also be empowered to adjust all Accounts, to pay all Debts due by the University, and to transact all matters touching such Property and Revenue; but the said Officer shall never be appointed for a longer period than to the next following stated election of the Rector; and such Officer shall keep a regular Account of his intromissions, distinguishing therein the Receipts and Payments made on account of any Property or Revenue held by the Court for special purposes, from the Receipts and Payments made on account of any Property held by the Court subject only to be applied to the general purposes of the University.

43.

Not more than One hundred Pounds to be retained in hand by any Officer or Servant.

And be it Enacted, That the Officer appointed as aforesaid to receive the said Rents, Profits or Income, shall pay all Monies to be received by him from time to time, into one or other of the Chartered Banks, and that no Officer or Servant shall at any time have or retain above One hundred Pounds of such Monies in his hands for more than Ten Days, under the Penalty of Ten per centum on the amount thereof, besides the legal interest, and that such Penalty shall be recoverable from such Officer or Servant in any Suit before the Judge Ordinary of the bounds at the instance of the Court.

And

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44. Court may cite parties and witnesses

And be it Enacted, That the Court, in all matters over which the Court have jurisdiction which may come before them, shall have power to cite any Party interested therein to appear before the Court, and also to cite any Witness to give evidence upon oath, or otherwise; and the Court shall be open to any Professor, Lecturer, Graduate and Student of the University, unless the Court having considered the peculiar nature of the case shall deem it expedient not to admit such persons to be present.

When an open Court.

45. Senate, how constituted.

And be it Enacted, That the Senate shall consist of the Rector, the Dean, the Principal and all the Professors in the University, and a Quorum of the Senate shall consist of at least One-half of the numbers thereof for the time being; and that the Rector, and in his absence the Dean, and in the absence of the Rector and Dean the Principal, shall be the Preses of the Senate; and in the absence of the Rector, the Dean and the Principal, the Professor of the University then present who shall for the greatest length of time have been a Professor of the University shall be the Preses of the Senate.

46. Stated Meetings of the Senate.

And be it Enacted, That the Senate shall be held on the first Saturday of each month, at such hour and in such place within the University Building as the Senate shall from time to time think proper and appoint.

47. All Degrees to be granted by the Senate.

And be it Enacted, That the Senate alone shall have hereafter the power of conferring a Degree in any Faculty; and that the Senate shall have power to confer any Degree in any Faculty, in any order in which they may think most expedient, and that no Appeal from the decision of the Senate in any matter or thing touching the granting of a Degree, shall be allowed either to the Court or any other Judicatory: Provided always, That any rule or regulation for granting any degree in any Faculty in force at the time such degree shall be granted, shall be duly observed before such degree shall pass the seal of the University.

48. Ordinary discipline of the Students to be in the Senate.

And be it Enacted, That the ordinary discipline of the Students in the University, with power of dismissal and expulsion for immoral, disorderly or contumacious conduct, shall be vested in the Senate without appeal to the Court, except from Students, on account of being dismissed from any class or classes, or of being expelled from the University; and each Professor and Lecturer shall have the right of dismissing Students from his own class for disorderly or contumacious conduct therein, subject to appeal to the Senate and Court.

49. Appointment of Bursaries now in Principal, or any of the Professors ex officio, to be in the Senate.

AND whereas the Principal, Professors, and Officers of and in the University, or certain of their number, have or claim to have in virtue of their offices or otherwise, as well the right of patronage on mortifications for Bursaries, Exhibitions and Lectureships, or other rights therein

therein and thereto, as certain other rights of patronage, or other rights which heretofore have been exercised by the said Persons or some of them: And whereas it is expedient that such rights should be vested in the Senate; BE it therefore Enacted, That excepting in so far as is herein otherwise provided all and every such patronage, and such other rights now vested in, or which may hereafter be granted to the Principal and Professors of the University, or to any of them, without words which shall in effect exclude any Member of the Senate to exercise such right, shall belong to and be exercised by the Senate, but subject to the conditions and provisions of this Act; and that the Court shall have power to enjoin and require the Senate to fill up any or all Bursaries, Exhibitions and Lectureships by competition.

50. Senate to appoint Librarian, Keeper of Museum and Servants annually.

And be it Enacted, That the right of appointment, superintendence and dismissal of the Librarian, Keeper of the Museum, Chaplain, and the several Servants and subordinate Officers of the University, excepting such Officers as shall from time to time, by virtue of this Act, be appointed by the Court, shall belong to the Senate: Provided always, That no appointment to be made by the Senate to any office or place shall be made for a longer period than One Year.

51. Senate may propose Regulations to the Court.

And be it Enacted, That the Senate shall have power to originate and recommend, to the Court, any Rule or Regulation for the granting of a Degree for the curricula of study, for the mode of teaching, or for otherwise modifying the educational system adopted or to be adopted in the University; and all such Rules or Regulations thus originating and recommended, shall take effect upon receiving the sanction and consent of the Court.

52. Professors divided into Faculties.

And be it Enacted, That the Principal and all the Professors shall be divided into at least Four Faculties; namely, the Faculty of Theology, the Faculty of Law, the Faculty of Medicine and the Faculty of Arts; and that the Principal, the Professor of Divinity, the Professor of Church History and the Professor of Oriental Languages shall be Members of the Faculty of Theology; and the distribution of all the other Professors into the several Faculties shall be arranged as the Court shall direct and appoint; and each Faculty shall be entitled to examine Candidates for Degrees therein respectively, and to meet and consider of any matters affecting the peculiar interests of such Faculty, and of any Regulations which such Faculty may think proper to recommend to the adoption of the Court for the better management of the business within the department of such Faculty; but no decision of any Faculty shall have any force in the University, unless it be sanctioned by competent authority, or consistent with the Regulations of the University existing at the time.

53. Examiners for Degrees to receive Fees.

And be it Enacted, That every Professor who shall be an Examiner of Candidates for graduation, and shall have been present at the examination

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nation undergone by any Candidate, shall be entitled to receive for each such Candidate, out of the funds of the University, such sum by way of fee as the Court may fix, and this sum shall be received by the Examiner, whether the Candidate be passed or rejected.

54. Special Meetings of Court or Senate may be called.

And be it Enacted, That it shall be lawful for any Three or more Members of the Court or of the Senate respectively to require a Special Meeting to be held of the Court or of the Senate, as the case may be, and the Officer appointed for such purpose shall accordingly call a Special Meeting of the Court or of the Senate, to be held at the time and place mentioned in the written requisition to be signed by such Three or more Members: Provided always, That no Special Meeting of the Court or of the Senate shall be held until Forty-eight Hours after a written or printed Notice of such intended Meeting shall have been left at the residence of, or sent by post to, each Member of the Court or of the Senate, as the case may be, resident in *Glasgow*; and provided also, That no question or matter, other than such as shall have been mentioned in the Notice sent to each Member calling such Special Meeting, shall be entered upon at such Special Court or Senate.

55. No Member of Court or Senate to hold office of profit.

And be it Enacted, That no Member of the Court or of the Senate shall be appointed to or hold any office or place of profit as an Officer or Servant, or be directly or indirectly, by himself or his partner, interested in any contract made by the Court.

56. Intimation of Elections, how to be given to Electors, and Meetings of the Court and Senate to be intimated to the respective Members thereof.

And be it Enacted, That whenever any Meeting is to be held, under the authority of this Act, for the purpose of electing any Person to act in any character, or to hold any office or place in or connected with the University, except in the character of servant, and unless it is otherwise provided in this Act, every such Election shall be held within the hours of Ten in the forenoon and Six in the afternoon, and shall be intimated to the Chancellor, and to every Member of the Court and Senate, by the Officer appointed for such purpose, by a written or printed Notice, stating the time when and place where such Election is to be held; and a similar Notice of such intended Election shall also be affixed to the gates of the University, and published in at least Two of the Newspapers printed in *Glasgow*, not less than Two Weeks before the time when such Election is to take place; and every Meeting of the Court or Senate shall be intimated to the respective Members of the Court or Senate, as the case may be, by the Officer appointed for such purpose, by a written or printed Notice, stating the time when and place where such Meeting is to be held, to be left at the residence of or sent by post to each Member of the Court or of the Senate, as the case may be, resident in *Glasgow*.

57. Preses who has taken Chair to con-

And be it Enacted, That at any Meeting to be held under the authority of this Act, when such Meeting had been constituted, and the

tinue Preses, notwithstanding presence of Person who might have been Preses of such Meeting.

the Preses shall have taken the Chair, such Preses shall remain therein, and continue to officiate as Preses during the whole time such Meeting shall remain constituted, notwithstanding that any other Person, who, had he been present at the commencement of the Meeting, would have been entitled to be Preses of such Meeting, shall subsequently join such Meeting; and the fact of the Minutes of such Meeting being signed by any Person as Preses of such Meeting, shall be evidence of such Preses being entitled to preside at such Meeting, and also of his having so presided; and that every Meeting which shall be held under the authority of this Act may be from time to time adjourned by the majority of the Persons present, though not a quorum.

Power to adjourn.

58. Questions to be determined by majority of Votes, and Preses of Meetings to have a casting Vote

And be it Enacted, That every question or matter which shall come before any Meeting to be held under the authority of this Act, shall be determined by a Majority of the Votes of the Persons present entitled to vote; and the Preses of such Meeting shall, in the event of an equality of votes, have a casting vote in addition to his own deliberative vote.

59. Proceedings to be entered in books.

And be it Enacted, That the Preses of the respective Meetings, under the authority of this Act, shall order and direct that entries shall be made in books to be kept for that purpose, of all the acts, orders, proceedings and transactions of such respective Meetings, the entry of which acts, orders, proceedings and transactions shall be signed by the Preses of such respective Meetings; and the same, when so entered and signed, shall be deemed and taken to be original acts, orders and proceedings; and the same, or extracts therefrom, signed by the Officer to be appointed for that purpose, shall be allowed to be received in evidence in all Courts, and before all Judges, Justices, and others; and every Person who may desire the same may have delivered to him such extracts, paying for every Hundred Words to be contained therein the sum of Sixpence, and so in proportion for any greater or less number of words.

60. Future Principals to be Professor of Divinity.

And be it Enacted, That the Person who shall be appointed the successor to the present Principal of the College of *Glasgow*, shall also be appointed Primarius Professor of Divinity and Professor of Biblical Criticism, and shall lecture or teach in the department of Biblical Criticism under all the regulations, conditions and restrictions to which other Professors of the University are subject.

61. Professors not to hold any other office.

And be it Enacted, That the Professor of Law, the Professor of Practice of Medicine, the Professor of Surgery, the Professor of Materia Medica and the Professor of Midwifery, shall severally be entitled to practise in their respective professions, in so far as is not inconsistent with their duties as Professors; but with the said exceptions, no Principal or Professor to be hereafter appointed in the University shall, while he continues Principal or Professor, hold any other official or permanent situation, or be engaged in any regular trade or profession, without

without the written permission of the Court first had and obtained, and so long only as such permission shall not be recalled; and no Principal or Professor to be hereafter appointed shall hold at the same time more than one endowed Professorship: Provided always, That if any Person holding any such Professorship shall accept a second, he shall *ipso facto* be held to have resigned the first; and that if any Principal or Professor in the University shall accept a parochial charge, he shall *ipso facto* be held to have resigned his office in the University; and that no Minister of a Parish appointed to the office of Principal or to a Professorship in the University, shall be lawfully inducted into such office without first producing evidence of his having resigned such parochial charge, and if any such Principal elect, or any such Professor elect, shall be inducted without first producing such evidence, not only his induction, but his appointment, shall be null and void, and the vacancy shall be held to have taken place on the day of such unlawful induction.

62. The office of ordinary Visitors to cease.

And be it Enacted, That from and after the passing of this Act, the office and powers thereof of the Persons heretofore entitled the Ordinary Visitors of the College shall cease and determine.

63. Court to fix Salaries.

And be it Enacted, That the Court shall have the sole power to fix and alter the Salaries of the Principal and Professors of the University, under the following regulations and restrictions; (that is to say) as soon after the passing of this Act as may be possible, consistently with the other provisions of this Act, and with a due regard to justice and the rights and interest of every individual Professor, the Court shall annex to the office of Principal and to every Professorship, the following Salaries; (that is to say) to the office of Principal an annual Salary of

to every Professorship belonging to the Faculty of Theology an annual Salary of to the Professorship of Law, the Professorship of the practice of Medicine, the Professorship of Surgery, the Professorship of Materia Medica, the Professorship of Midwifery, an annual Salary of each; and to each of the following Professorships, namely, the Professorship of Anatomy, the Professorship of Chemistry, the Professorship of Natural History, the Professorship of Botany, the Professorship of Natural Philosophy, the Professorship of Mathematics, the Professorship of Moral Philosophy, the Professorship of Logic, the Professorship of Greek, and the Professorship of Humanity, an annual Salary of

and so soon as the Principal and every Professor shall be in possession of a Salary not less than the stated annual Salary herein annexed to his office, but not sooner, the Court shall have the power to increase, as the funds of the University may permit, and as to the Court shall seem proper, all or any of the aforesaid stated Salaries: Provided always, That any Professor failing to have and teach a class in his

proper department during any one year, except from infirmity, certified as aforesaid, shall, during the said year, receive no Salary.

64. Court to fix Salary on a vacancy occurring.

And be it Enacted, That whenever any vacancy shall occur in the office of Principal, or in any of the Professorships, the Court shall fix the Salary to be paid to the Person to be appointed thereto, which Salary the Court shall not have power to increase until after the stated election of a Rector next after such Salary shall have been so fixed.

65. Fees on Degrees to form part of the Funds of the University.

And be it Enacted, That from and after the passing of this Act, no Principal or Professor of the University shall have a right to any part of the Fees exacted from Persons on whom Degrees are conferred, but all such Fees shall form part of the general funds of the University: Provided always, That the present Professor of Natural Philosophy and the present Professor of Moral Philosophy shall be entitled to such Compensation as may to the Court seem proper, for whatever loss they may sustain by being deprived of that part of the Graduation Fees which they have heretofore, in virtue of any decision of the Courts of Law or otherwise claimed and received, excepting in so far as such loss may be hereafter made up by Fees received from the general funds of the University for examining Candidates for graduation: Provided also, That the Successors in office of the present Principal and of the present Professors shall have no claim whatever to any such Compensation.

66. Common Seal, custody thereof.

And be it Enacted, That there shall be a Common Seal or Stamp of the University, of which the Principal shall be Custodier; and all acts of the Court and of the Senate respectively which may be required to be given in evidence in any other Court, and all Degrees to be granted by the Senate, shall be impressed with such Seal or Stamp, and the same shall then be conclusive evidence in all Courts and before all Judges of the matters so authenticated by such Seal or Stamp.

67. When stated days of meetings happen on Sunday, Meeting to be held on Monday.

And be it Enacted, That if any stated day whereon any Meeting is appointed to be held by virtue of this Act shall be a Sunday, such Meeting shall, instead of being held on such stated day, be held on the day next following such stated day.

68. Present appointments of Officers and Servants to cease.

And be it Enacted, That the respective appointments of the Chancellor, Rector, Dean, and every Officer and Servant, at the passing of this Act, shall cease and determine immediately on the appointment of the several and respective Persons who are hereby authorized to be appointed to such offices or for the execution of the duties which, after the passing of this Act, will be imposed on them; and every Officer or Servant who shall be no longer retained as an Officer or Servant, shall receive such Compensation as the Court shall think proper, if the Court

Court shall be of opinion that such Officer or Servant ought to receive any compensation for the loss of his office or place.

69. Rights of Principal and Professors now in office reserved.

And be it Enacted, That nothing herein contained shall be construed to affect or impair the rights of the present Principal and present Professors of the University, to the salaries and class fees, if any, now belonging to or enjoyed by them during the time they shall respectively continue to hold their present places; any thing herein contained to the contrary notwithstanding.

70. Act may be repealed in present Session.

And be it Enacted, That this Act may be varied, altered or repealed by any Act or Acts to be passed during the present Session of Parliament.

Glasgow University.

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BILL

[AS AMENDED BY THE COMMITTEE]

For the Regulation of the University of *Glasgow.*

(*Prepared and brought in by Mr. Oswald and Mr. Dunlop.*)

Ordered, by The House of Commons, *to be Printed*,
10 *August* 1835.

501.

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19 *June* 1835.

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B I L L

To Repeal an Act of the Fourth and Fifth Year of His present Majesty, relating to Weights and Measures, and to make other Provisions instead thereof.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS an Act was passed in the fourth and fifth years of the reign of His present Majesty, intituled, "An Act to amend and render more effectual two Acts of the Fifth and Sixth Years of the Reign of his late Majesty King GEORGE the Fourth, relating to Weights and Measures:" Preamble.

And whereas it is expedient to repeal the same, and to make other provisions instead thereof; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, THAT the said Act shall be and the same is hereby Repealed. 1. Repeal of 4 & 5 Will. 4. c. 49.

Provided always, and be it Enacted, That nothing herein contained shall extend, or be construed to extend, to interfere with any acts done or appointments made under the authority of the said Act, or to prevent the suing for or recovery of any Penalty incurred by any Offence committed against the provisions of the said Act previous to the repeal thereof, in and by this Act, or to hinder or defeat any Prosecution commenced or to be brought for such Offence; but all Penalties and Forfeitures so incurred, may be sued for and recovered in the same manner as any Penalties and Forfeitures incurred under the provisions of this Act are recoverable. 2. Appointments &c. under 4 & 5 Will. 4. c. 49, not to be interfered with.

AND whereas an Act passed in the fifth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for ascertaining 3. 5 Geo. 4. c. 74.

taining and establishing uniformity of Weights and Measures: And
6 Geo. 4. c. 12. whereas another Act passed in the sixth year of the reign of his said late Majesty, intituled, "An Act to prolong the Time of the commencement of an Act of the last Session of Parliament, for ascertaining and establishing Uniformity of Weights and Measures; and to amend the said Act:" And whereas, notwithstanding the provisions of the said recited Acts, many sets of Weights and Measures of old accustomed and different shapes have been made and verified and stamped by the Chamberlains as well as by the Auditor in the Exchequer, as Models of the said new Standards, and have been used as Standard Weights and Measures under the said recited Acts, although different in shape and form from the Standards prescribed by the said recited Act of the fifth year aforesaid; and it is therefore expedient that such Standard Weights and Measures should be made legal, and that the Comptroller General, or some other Officer of the Exchequer duly authorized, should be empowered to compare and verify, and stamp as so compared and verified, Standards of Length, Weight or Measure, although not exact Models and Copies in shape and form of the respective Standards of Length, Weight and Measure deposited under the provisions of the said first-recited Acts in the Office of the said Chamberlains and Auditor: And whereas it is expedient that the use of all Weights and Measures, not in conformity with the Weights and Measures established by the said recited Acts, should be prohibited, and that the use of the Heaped Measure should be abolished; BE it therefore Enacted,

Provisions in recited Acts as to Models and Copies of Standard Weights and Measures repealed.

That so much of the said last-mentioned recited Acts as require that all Weights and Measures shall be Models and Copies in shape or form of the Standards deposited in the Exchequer, and also so much of the said recited Acts as allow the use of Weights and Measures not in conformity with the Imperial Standard Weights and Measures established by the said Acts, or allow Goods or Merchandize to be bought or sold by any Weights or Measures established by local Custom or founded on special Agreement, shall be and the same are hereby Repealed.

4.

Weights and Measures stamped at the Exchequer declared legal, although not similar in Shape to those required by recited Acts.

And be it Enacted, That all Weights and Measures which have been so verified and stamped at the Exchequer as Copies of the Standard Weights and Measures, corresponding in Weight and Capacity with those established by the said recited Acts, shall be deemed and taken to be legal Weights and Measures, and may be legally used for comparison as Copies of the Imperial Standard Weights and Measures, although not similar in shape to those required under the provisions of the said recited Acts; and that the Comptroller General, or some other Officer of the Exchequer duly authorized, may compare and verify, and stamp as so compared and verified, as correct Standard Measures of a Yard, and as correct Standard Weights, and as correct Standard Measures of Capacity, any

Superintending Officer of Exchequer may verify and stamp Weights and Measures of other form than those

Weights

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Weights and Measures which shall correspond in Length, Weight and Capacity with the Standards, or parts or multiples thereof respectively, deposited in the Exchequer under the said Act of the fifth year aforesaid, although such Weights and Measures may not be Models or Copies in shape or form of the Standards so deposited as aforesaid; any thing in the said recited Acts to the contrary notwithstanding.

prescribed by the Act 5 Geo. 4. c. 74.

5.
Copies of the Standard Weights and Measures, which shall have been worn and mended, to be sent to the Exchequer to be re-verified.

And be it Enacted, That all Copies of the Imperial Standard Weights and Measures which may have been worn by time, and mended in consequence of any wear or accident, shall forthwith be sent to the Exchequer for the purpose of being again compared and verified, and shall be stamped as mended Copies of the Imperial Standard Weights and Measures; provided that the Comptroller General, or other Officer appointed for such verification shall deem them fit to be used for the purposes of Standards; and every new comparison and verification shall be indorsed upon the original Indenture of verification, and such Weights and Measures shall be so stamped upon payment of Fees of verification only; and the Comptroller General or other Officer at the Exchequer duly authorized, shall keep an Account or Register of all Copies of the Imperial Standard Weights and Measures that shall have been verified at the Exchequer.

Officer at Exchequer to keep a Register of Copies verified.

6.
Local and Customary Measures abolished.

And be it Enacted, That from and after the *passing of this Act*, the Measure called the Winchester Bushel, and the Lineal Measure called the Scotch Ell, and all local or customary Measures shall be abolished; and every Person who shall sell, by any denomination of Measure other than one of the Imperial Measures, or some multiple thereof, shall, on conviction, be liable to a Penalty not exceeding the sum of *Forty Shillings* for every such sale: Provided always, That nothing herein contained shall prevent the Sale of any Articles in any Vessel, where such Vessel does not profess to represent any legal denomination of Measure.

Not to prevent Sale of Articles in Vessel, not professing to represent any legal denomination of Measure.

7.
Heaped Measure abolished.

AND whereas the Heaped Measure is liable to considerable variation; BE it therefore Enacted, That from and after the *passing of this Act* so much of the said recited Acts as relate to the Heaped Measure shall be and are hereby repealed, and the use of the Heaped Measure shall be abolished, and all Bargains, Sales and Contracts which shall be made after the *passing of this Act* by the Heaped Measure, shall be null and void; and every Person who shall sell any Articles by the Heaped Measure shall, on conviction, be liable to a penalty not exceeding *Forty Shillings* for every such Sale.

8.
Articles heretofore sold by Heaped Measure, how to be sold.

AND whereas some Articles heretofore sold by Heaped Measure are from their size and shape incapable of being stricken, and from their

their nature and quality may not be conveniently sold by Weight; BE it therefore Enacted, That all such Articles may henceforth be sold by a Bushel Measure, corresponding in shape with the Bushel prescribed in and by the said Act passed in the fifth year of the reign of his late Majesty, for the Sale of Heaped Measure, or by any multiple thereof, filled in all parts up to the level of the brim, or as nearly so as the size and shape of the Articles sold will admit: Provided always, That nothing herein contained shall prevent the sale by Weight of any Article heretofore sold by Heaped Measure.

5 Geo. 4. c. 74.

9. All Articles to be sold by Avoirdupois, except as herein stated.

And be it Enacted, That from and after the *passing of this Act* all Articles sold by Weight shall be sold by Avoirdupois Weight, excepting Gold, Silver, Platina, Diamonds or other precious Stones, and Drugs when sold by Retail; and that such excepted Articles, and none others, may be sold by Troy Weight.

10. The Stone Weight, Hundred Weight and Ton.

AND whereas by local Customs in Markets, Towns and other Places throughout the United Kingdom, the denomination of the Stone Weight varies; BE it therefore Enacted, That from and after the *passing of this Act* the Weight denominated a Stone shall in all cases consist of Fourteen Standard Pounds Avoirdupois, and that the Weight denominated an Hundred Weight shall consist of Eight such Stones, and that the Weight denominated a Ton shall consist of Twenty such Hundred Weight; and all Bargains, Sales or Contracts which shall be made after the *passing of this Act* by any other Stone, Hundred Weight or Ton, shall be null and void: Provided always, That nothing herein contained shall prevent any Bargain, Sale or Contract being made by any multiple of the pound weight.

11. Contents of Weights and Measures to be stamped on them.

And be it Enacted, That all Weights which shall be made after the *passing of this Act* of the weight of One Pound Avoirdupois, or more, shall have the number of pounds contained in every such Weight stamped or cast on opposite sides thereof in legible Figures and Letters; and that all Measures of capacity, which shall be made after the *passing of this Act*, shall have their contents denominated, stamped or marked on the outside of such Measures in legible Figures and Letters.

12. Weights made of Lead or Pewter not to be stamped.

AND whereas the use of Weights made of soft materials affords facility to fraud; BE it therefore Enacted, That from and after the *passing of this Act* no Weight made of Lead or of Pewter shall be stamped or used: Provided always, That nothing herein contained shall prevent the use of Lead or Pewter in the manufacture of Weights if they be wholly and substantially cased with Brass or Copper, or shall prevent the insertion of such a plug of Lead or Pewter into Cast Iron Weights as shall be bonâ fide necessary for the

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the purpose of adjusting them, and of affixing thereon the Stamp hereinafter mentioned.

13. For ascertaining Rents and Tolls, &c. payable in England and Ireland.

AND for the purposes of ascertaining and providing for the fulfilment of all existing Contracts, and fixing the Payments to be made in consequence of such Contracts, or Rents in England and Ireland payable in Grain or Malt, or in any other commodity or thing, and in consequence of any Toll, Rate or Duty heretofore payable according to the Weights and Measures heretofore in use, where the same shall not have been already ascertained and fixed under the provisions of the said Act of the fifth year of his late Majesty; BE it Enacted, That at the General or Quarter Sessions of the Peace to be holden in every County, Riding or Division, and in every City, Town or Place (being a County of itself) in England or Ireland, next after the expiration of Three Months after the *passing of this Act*, or at any General or Quarter Sessions of the Peace to be holden thereafter, an Inquisition shall be taken before the Justices assembled at such General or Quarter Sessions, by the oaths of *Twelve* substantial Freeholders of the said respective Counties, Cities, Towns or Places, having lands or tenements to the value of *One Hundred Pounds* per annum or upwards, to be summoned by the Sheriff or proper Officers of every such County, City, Town or Place to inquire into and ascertain the amount according to the Standard of Weight or Measure by this Act established, of all Contracts to be performed or Rents to be paid in Grain or Malt or any other commodity or thing, or with reference to the Measure or Weight of any such Grain, Malt or other commodity or thing, and the amount of any Toll, Rate or Duty heretofore payable according to any Weights and Measures heretofore in use within such Counties, Cities, Towns or Places respectively; and such Inquisitions, when taken, shall be transmitted by the respective Clerks of the Peace of the same Counties respectively, or by the Mayor, Bailiff or other head Officer of every such City, Town or Place (being a County of itself) into His Majesty's Court of Exchequer at Westminster and Dublin respectively, and shall then be enrolled of record, and shall and may be given in evidence in any Action or Suit at Law or in Equity, and shall also be published in one or more Newspapers circulated in such County, City, Town or Place, and the Amount so to be ascertained shall be the rule of Payment in regard to all such Contracts, Rents, Tolls, Rates or Duties in all time coming; and the Costs and Charges of such Inquisitions, and the Enrolments thereof, and of the publication of the same as aforesaid, shall be paid and defrayed, in England, out of the general Rate or Stock of every such County, Riding, Division, City, Town or Place (being a County of itself), and in Ireland by Presentments of the several Grand Juries. 5 Geo. 4. c. 74.

14. The like in Scotland.

AND for the purpose of ascertaining and fixing the Payments to be made of all Stipends, Feu Duties, Rents, Tolls, Customs, Casualties and other demands whatsoever payable in Grain, Malt or Meal, or any other commodity or thing, in Scotland, or in any other place or district of the same (when such payments shall not have been already ascertained and fixed under the provisions of the said Act of 5 Geo. 4. c. 74. the fifth year of his late Majesty; BE it Enacted, That the Sheriff in each Shire in Scotland, shall, as soon as conveniently may be after the expiration of *Three* calendar Months from and after the *passing of this Act*, summon and impannel a Jury of the same number and of the same qualifications which are required in the Jury who strike the Fiar Prices of Grain within the same Shire to assemble at such place or places as he shall find convenient, which Jury shall inquire into and ascertain the amount, according to the Standards by this Act established, of all such Stipends, Feu Duties, Rents, Tolls, Customs, Casualties and other Demands whatsoever payable in Grain, Malt, Meal or any other commodity or thing, according to the Weights and Measures heretofore in use within the same Shires; and such Inquisitions, when taken, shall be transmitted by the respective Sheriff Clerks of such Shire, into His Majesty's Court of Exchequer at Edinburgh, and shall there be enrolled of record, and shall and may be given in Evidence in any Action at Law, and shall also be published in one or more Newspaper or Newspapers circulated in such Shire; and the Amount so to be ascertained shall, when converted into the Standard Weights and Measures, be the rule of Payment in regard to all such Stipends, Feu Duties, Rents, Tolls, Customs, Casualties and other Demands whatsoever in all time coming; and the Costs and Charges of such Inquisitions, and the Enrolment thereof, and of the Publication of the same as aforesaid, shall be assessed and levied, paid and defrayed by every such Shire in manner as herein directed with respect to the assessment for the Models of the Weights and Measures to be purchased for the same Shire.

15. Regulation as to Fiar Prices of Commodities in Scotland.

And be it Enacted, That in Scotland, from and after the *passing of this Act*, the Fiar Prices of all Grain in every County shall be struck by the Imperial Quarter, and all other Returns of the Prices of Grain shall be set forth by the same, without any reference to any other Measure whatsoever; and that any Sheriff Clerk, Clerk of a Market, or other Person who shall offend against this Provision shall forfeit a Sum not exceeding *Five Pounds*.

16. Copies of the Imperial Standards to be provided by order of Quarter Sessions in England,

And be it Enacted, That in England, at the General or Quarter Sessions of the Peace next after the *passing of this Act* the Justices of the Peace of every County, Riding or Division, or County of a City or County of a Town in General or Quarter Sessions assembled, and

and in Scotland, the Justices of the Peace, at a Meeting to be called for the purpose by the Sheriff of each County, and the Magistrates of each Royal Burgh, within *Three* Months after the *passing of this Act*, and so from time to time at any subsequent General or Quarter Sessions, or Meeting so called as aforesaid, shall determine the Number of Copies of the Imperial Standard Weights and Measures which they shall deem requisite for the comparison of all Weights and Measures in use within their respective Jurisdictions, and shall direct that such Copies, verified and stamped at the Exchequer, shall be provided for the use of the same; and shall fix the Places at which such Copies shall be deposited, and shall appoint a sufficient number of Inspectors of Weights and Measures for the safe custody of such Copies, and for the discharge of the other duties hereinafter mentioned, and shall allot to each Inspector a separate District, and shall direct what reasonable remuneration shall be paid to such Inspectors; and they are hereby empowered to suspend or dismiss any Inspectors so appointed, or to appoint additional Inspectors as occasion may require: Provided always, That nothing herein contained shall extend to compel any Royal Burgh of Scotland (except such as are County Towns) to provide Copies of the Imperial Standard Weights and Measures, or to appoint an Inspector or Inspectors, for the performance of the duties prescribed by this Act.

and by Meeting of Justices in Scotland.

Appointment of Inspectors.

17. Copies to be provided by Grand Juries in Ireland;

And be it Enacted, That in Ireland the Grand Jury of every County, County of a City, or County of a Town shall, at the Assizes next ensuing after the *passing of this Act*, and so from time to time at any subsequent Assizes, determine the Number of Copies of the Imperial Standard Weights and Measures which they shall deem requisite for the comparison of all Weights and Measures in use within their Counties, Counties of Cities, or Counties of Towns respectively, and shall direct that such Copies, verified and stamped at the Exchequer, shall be provided for the use of the same; and shall fix the Places at which such Copies shall be deposited, and shall appoint a sufficient number of Inspectors of Weights and Measures for the safe custody of such Copies, and for the discharge of the other duties hereinafter mentioned, and shall allot to each Inspector a separate District, and shall direct what reasonable remuneration shall be paid to such Inspectors; and they are hereby empowered to suspend or dismiss any Inspectors so appointed, or to appoint additional Inspectors from time to time as occasion may require.

and Inspectors appointed.

18. Judges to order Copies in Counties in Ireland, when it has not been done by Grand Juries.

And be it Enacted, That in Ireland the senior Judge shall, before the close of the Assizes next ensuing after the *passing of this Act*, inquire whether One complete set of such Copies of the Imperial Standard

Standard Weights and Measures has been provided in each County, County of a City or County of a Town; and in every case in which it shall not appear to him that One set at least of such Copies has been provided, such Judge shall forthwith order the Treasurer of the County, County of a City or County of a Town, to provide One complete set of such Copies; and every such order shall have the effect of a Presentment on the County at large for such Sum as may be necessary to procure a complete set of such Copies; and such Treasurer shall, within *Three calendar Months* next after he shall receive such order, fully execute the same, or failing so to do, shall forfeit the Sum of *Fifty Pounds* sterling.

19. Magistrates to procure Stamps for Inspectors, for stamping all Weights, &c. under this Act.

And be it Enacted, That in England the Justices of the Peace in General or Quarter Sessions assembled, and in Scotland the Justices of the Peace and Magistrates at a Meeting called by the Sheriff, and in Ireland the Grand Jury of each County, County of a City or County of a Town, shall provide for the use of the Inspectors good and sufficient Stamps for the stamping or sealing Weights and Measures used or to be used in each and every County, Riding or Division, County of a City or County of a Town, which Stamps so provided shall be taken to be the Stamps for such County, Riding or Division, County of a City or County of a Town; and that all Weights and Measures whatsoever, except as hereinafter excepted, which shall be used for buying and selling, or for the collecting of any Tolls or Duties, or for the making of any Charges on the Conveyance of any Goods or Merchandize, shall be examined and compared with one or more of the Copies of the Imperial Standard Weights and Measures provided under the authority of this Act for the purpose of comparison by such Inspectors, who shall stamp, in such manner as best to prevent fraud, such Weights and Measures when so examined and compared, if found to correspond with the said Copies, and the Fees for such Examination, Comparison and Stamping shall be according to the Scale contained in the Schedule to this Act annexed; and every Person who shall use any Weight or Measure other than those authorized by this Act, or which has not been so stamped as aforesaid, except as hereinafter excepted, or which shall be found light or otherwise unjust, shall, on conviction, forfeit a sum not exceeding *Five Pounds*; and any contract, bargain or sale made by any such Weights or Measures shall be wholly null and void, and every such light or unjust Weight and Measure so used shall be liable to be seized and forfeited: Provided always, That nothing herein contained shall extend to require any single Weight above *Fifty-six Pounds* to be inspected and stamped, such Weight of *Fifty-six Pounds* being the greatest of the Imperial Standard Weights deposited in the Exchequer; and that nothing herein contained shall extend to require any wooden or wicker Measure

Penalty on using Weights or Measures not authorized by Act, &c.

No Weight above 56 lbs. to be inspected or stamped.

Not to require wooden or wicker

Measure used in the sale of Coal, Lime, or other articles of the like nature, or any Glass or Earthenware Jug or Drinking Cup, though stated to contain any legal denomination of measure, to be stamped; but any Person buying by any Vessel stated to contain any legal denomination of Measure is hereby authorized to require the contents of such Vessel to be ascertained by a comparison with a Stamped Measure of the same quantity, such Stamped Measure to be found and provided by the Person who shall use such wooden or wicker Measure, Glass, Jug or Drinking Cup as aforesaid; and in case the Person who shall use such last-mentioned Measure or Vessel shall refuse to make such comparison, or if, upon such comparison being made, such Wooden or Wicker Measure, Glass, Jug or Drinking Cup, shall be found to be deficient in quantity, the Person who shall use the same shall, on conviction, be subject to the Forfeitures and Penalties hereinbefore imposed on any Person using light or unjust Weights or Measures.

Measures used in sale of Coal, or Glass, &c. to be stamped.

And be it Enacted, That the Expense of providing and transmitting such Copies of the Imperial Standard Weights and Measures, and of the Stamps to be used by the Inspectors, and the remuneration to the Inspectors, shall be paid in England, out of the Stock raised in such Counties, Ridings, Divisions or Counties of Cities; and in Scotland, such Expenses in the respective Shires and Stewartries, and Cities or Royal Burghs, shall be assessed by the Commissioners of Supply upon such Shires and Stewartries, and upon Cities or Royal Burghs by the Magistrates thereof, and shall be paid along with the Land Tax payable in such Shires or Stewartries, and Cities or Royal Burghs to the Collectors of the Land Tax in such Shires or Stewartries, and Cities or Royal Burghs respectively; and in Ireland such Expenses in the respective Counties, Counties of Cities, and Counties of Towns, shall be provided for and paid by Presentments to be made by the Grand Juries on such Counties, Counties of Cities, and Counties of Towns respectively; and the Collectors of Land Tax in Scotland shall have such and the same powers of levying and recovering the Assessments to be made under this Act, as are competent to them for levying and recovering the said Land Tax.

20
Expence of providing Copies of Standard Weights, and Remuneration to Inspectors, to be defrayed out of County Rate, &c.

And be it Enacted, That after the *passing of this Act* no maker or seller of Weights or Measures, or Person employed in the making or selling thereof, shall be appointed an Inspector of Weights and Measures under the provisions of this Act; and that every Inspector shall forthwith enter into a legal Security to The King, to be sued for in any Court of Record, in the sum of Two hundred Pounds, for the due and punctual performance of the Duties of his Office, and for the due and punctual payment, at such time or times as he may be directed by the Justices, Magistrates or other Persons by

21.
Person employed in making or selling Weights or Measures, not to be appointed Inspector.
Inspectors to enter into Recognizance.

whom he may have been appointed, of all Fees received by him under the authority of this Act, and for the safety of the Stamps and Copies of the Imperial Standard Weights and Measures committed to his charge, and for their due restoration and surrender to such Person or Persons as may be appointed to receive them by the Justices, Magistrates or other Persons aforesaid, immediately on his removal or other cessation from Office.

22. Inspectors to attend at Market Towns, when ordered by Justices, &c.

And be it Enacted, That in England the Justices in General or Quarter Sessions assembled, and in Scotland the Justices or Magistrates at a Meeting called by the Sheriff, and in Ireland the Grand Jury of each County, County of a City or County of a Town, shall determine and appoint on what day or days each and every such Inspector shall attend with the Stamps and Copies of the Imperial Standard Weights and Measures in his custody, at each of the several Market Towns, and at such other Places within their respective jurisdictions as they shall deem expedient, and every such Inspector so attending shall examine, compare, and stamp if found correct, all such Weights and Measures as shall be brought to him for that purpose; and he shall keep a Book, wherein he shall enter Minutes of all such Comparisons, and give, if required, a Certificate under his Hand of every such Stamping; and every Inspector shall, once in every quarter of a year, account to the Treasurer of the County, Riding, Division, County of a City or County of a Town, or to such other Persons as shall be duly authorized by those by whom he may have been appointed, for all Fees received by him under this Act, and shall pay the amount thereof to such Treasurer or other Persons as aforesaid, who shall duly account for the same.

Inspector to pay Fees to Treasurer of County, &c.

23. Power to Magistrates of Towns &c. to appoint Inspectors.

Provided always, and be it Enacted, That in all Places which have been or shall be hereafter authorized under the provisions of any Act of Parliament, whether local or otherwise, to appoint Inspectors or Examiners of Weights and Measures, and in all other Places which have been or shall be hereafter by Charter, Act of Parliament or otherwise possessed of legal Jurisdiction, and which have been or shall be hereafter provided with Copies of the Imperial Standard Weights and Measures, verified and stamped at the Exchequer, it shall be lawful for the Magistrates of such Places, or for any other Persons who may be so authorized as aforesaid, to appoint an Inspector or Inspectors of Weights and Measures within the Limits of their respective Jurisdictions; and such Inspectors so appointed shall, within such Limits exclusively, have the same Powers and discharge the same Duties as the Inspectors of Weights and Measures appointed under this Act by the County Justices or Grand Juries for their respective Counties, and shall account as aforesaid to such Persons as shall be duly authorized by those by whom

Powers of such Inspectors.

whom they may have been appointed, for the amount of the Fees received by them: Provided always, That nothing herein contained shall prevent Inspectors appointed by County Justices or Grand Juries from coming to any Place within the Limits of such other Jurisdiction or authority as aforesaid, and there inspecting and stamping the Weights and Measures of any Person residing within the District for which such Inspectors may have been appointed; but that any Inspector knowingly stamping any Weight or Measure of any Person residing within the Limits of any local Jurisdiction for which another Inspector may have been legally appointed as aforesaid, shall forfeit a sum not exceeding *Twenty Shillings* for every Weight or Measure which he may so stamp.

Penalty on Inspector knowingly stamping Weight, &c. of Person residing out of District.

24.
Weighmasters in Irelend to be supplied with Beams and Scales, and accurate Copies.

And be it Enacted, That in every City or Town not being a County of itself, every Individual or Individuals or Body Corporate in Ireland, exercising the privilege of appointing a Weighmaster, shall, on or before the *First* day of *January One thousand eight hundred and Thirty-six*, or within *Three Months* after the set of Copies of the Imperial Standard Weights and Measures for the County in which such right shall be exercised shall have been provided, supply such Weighmaster with accurate Beams and Scales, and with a set of accurate Copies in respect of Weight, Capacity and Length of the County set, under a Penalty of *Twenty Pounds*; and the accuracy of such set of Copies shall be certified under the hand of some Inspector of Weights and Measures; and such set of Copies shall, for the purpose of comparison and verification, be considered Copies of the Imperial Standard Weights and Measures required by this Act, and shall be used for no other purpose whatever, under a Penalty of *Five Pounds*; and once at least in every *Five Years*, under the like Penalty, the same shall be re-adjusted by some set of Copies of the Standard Weights and Measures which shall have been verified by the Exchequer Standard.

25.
Weights and Measures once stamped, need not be re-stamped; 4 & 5 Will. 4, c. 49.

And be it Enacted, That no Weight or Measure duly stamped by any Inspector appointed under the authority of the said Act hereby repealed, or this Act, shall be liable to be re-stamped, although the same be used in any other place than that at which the same was originally stamped, but shall be considered as a legal Weight or Measure throughout the United Kingdom, unless found to be defective or unjust.

26.
Power to Justices and Inspectors to enter Shops, and inspect Weights and Measures.

And be it Enacted, That in England and Ireland it shall be lawful for every Justice of the Peace of any County, Riding or Division, or of any City or Town, and in Scotland for every Sheriff, Justice or Magistrate of any Borough or Town, to enter, or by writing under his hand to authorize any Inspector to enter any Shop, Store, Warehouse,

Warehouse, Stall, Yard or Place whatsoever, within his Jurisdiction, wherein Goods shall be exposed or kept for Sale, or shall be weighed for Conveyance or Carriage, and there to examine all Weights and Measures, and to compare and try the same with the Copies of the Imperial Standard Weights and Measures required or authorized to be provided under this Act; and if upon such Examination it shall appear that the said Weights or Measures are light or otherwise unjust, the same shall be liable to be seized and forfeited, and the Person or Persons in whose possession the same shall be found shall, on conviction, forfeit a Sum not exceeding *Five Pounds*; and any Person who shall neglect or refuse to produce for such examination, when thereto required, all Weights and Measures which shall be in his possession, or shall otherwise obstruct or hinder such examination, shall be liable to a like Penalty.

27. Penalty on Inspector for neglect of duty, or for misconduct.

And be it Enacted, That in case any Inspector of Weights and Measures shall be guilty of a breach of any duty imposed upon him by this Act, or shall wilfully disobey any of the orders or directions of the Justices, Magistrates or Grand Juries respectively, made in pursuance of this Act, or shall otherwise misconduct himself in the execution of his office, every such Offender shall upon conviction forfeit a Sum not exceeding *Five Pounds* for every such offence.

28. Penalty for counterfeiting Stamps on Weights and Measures.

And be it Enacted, That if any Person or Persons shall make, forge or counterfeit, or cause or procure to be made, forged or counterfeited, or knowingly act or assist in the making, forging or counterfeiting any Stamp or Mark now used, or which may hereafter be used for the stamping or marking of any Weights or Measures under this Act, shall for every such offence forfeit, on conviction, a Sum not exceeding *Fifty Pounds* or less than *Ten Pounds*; and if any Person shall knowingly sell, utter, dispose of, or expose to sale any Weight or Measure with such forged or counterfeit Stamp or Mark thereon, every Person so offending shall for every such offence forfeit, on conviction, a Sum not exceeding *Ten Pounds* or less than *Forty Shillings*; and that all Weights and Measures with such forged or counterfeited Stamps or Marks shall be forfeited and broken up, and the proceeds thereof shall be disposed of in the manner hereinafter mentioned.

29. Penalty on Price Lists, &c. denoting greater or less Weight or Measure than the same denomination of Imperial Weight or Measure.

And be it Enacted, That from and after the *First* day of *January One thousand eight hundred and Thirty-six*, if any Person or Persons shall print, or if the Clerk of any Market or other Person shall make any Return Price List, Price Current, or any Journal or other Paper containing Price List or Price Current, in which the denomination of Weights and Measures quoted or referred to shall denote or imply

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imply a greater or less Weight or Measure than is denoted or implied by the same denomination of the Imperial Weights and Measures under and according to the provisions of this Act, such Person or Persons or Clerk of Market shall forfeit and pay any sum not exceeding *Ten Shillings* for every copy of every such Return Price List, Price Current, Journal or other Paper, which he or they shall publish.

30. As to Penalties in England and Ireland. 5 Geo. 4. c. 74.

And be it Enacted, That all Penalties and Forfeitures which shall be incurred under any of the Provisions of the said recited Act of the fifth year aforesaid, or this Act, after deducting so much thereof, or not exceeding a moiety to be paid to the Party on whose Information the Conviction shall take place, as the Justice before whom the Party is convicted shall think fit; shall be paid to the Treasurer of such County, Riding or Division, County of a City, Corporate Town or other place in which they shall be respectively recovered, or to such other Person as shall be duly authorized to receive the same, and be applied to and make part of the County Stock, or of such other Funds as shall be liable, under the Provisions of this or any other Act, to the Cost of providing and maintaining Copies of the Imperial Standard Weights and Measures; any thing in the said recited Act of the fifth year aforesaid to the contrary notwithstanding.

31. Form of Conviction.

And be it Enacted, That in all Counties, Ridings or Divisions in England and Ireland, all Penalties and Forfeitures under this Act shall be sued for before Two or more Justices of the Peace at Petty Sessions, or before the Mayor or other Chief Magistrate of any City, Borough, Town or Place within whose Jurisdiction the Offence shall have been committed, and that the Conviction may be drawn up according to the following Form, or in words to the like effect:

"BE it Remembered, That on the day of in the year of our Lord A.B. is convicted before us, Two of His Majesty's Justices of the Peace [or, before me the Mayor or Chief Magistrate of the City, Borough, &c. of] for the [here specify the Offence, and the Time and Place when and where committed, as the case may be], contrary to an Act passed in the year of the reign of King WILLIAM the Fourth, intituled, &c. [as the case may be]; and We [or, I] do adjudge that the said A. B. hath forfeited for his [or, her] said Offence the Sum of [here insert the Penalty]. Given under our hands and seals [or, my hand and seal] the day and year first above written."

32. Recovery of Penalties;

And be it Enacted, That in England and Ireland all Penalties and Forfeitures inflicted or imposed by this Act, may, in case of non-payment thereof, be recovered in a summary way by the order and adjudication of Two or more Justices of the Peace at Petty Sessions, or before the Mayor or other Chief Magistrate of any City, Borough, Town or Place, within whose jurisdiction the offence shall have been committed, on complaint to them or him for that purpose made, and afterwards be levied, as well as the Costs (if any) of such Proceedings, on non-payment, by Distress and Sale of the Goods and Chattels of the respective Offenders by Warrant under the hands and seals of such Justices, or hand and seal of such Mayor or other Chief Magistrate, who is and are hereby authorized and required to summon and examine any Witnesses of or concerning such Offence, and to hear and determine the same, and the overplus (if any) of the Money so raised or recovered, after discharging such Penalties or Forfeitures, and the Costs and Expenses as aforesaid, shall be returned on demand to the respective Owners of the Goods and Chattels so seized and distrained; and in case any such Penalty or Forfeiture shall not be forthwith paid, it shall be lawful for the said Justices, Mayor or other Chief Magistrate, to order any Offender so convicted to be detained in safe custody, until return can be conveniently made to such Warrant of Distress, unless such Offender can give sufficient Security to the satisfaction of such Justices, Mayor or other Chief Officer, for his or her appearance before the said Justices, or before some other Justices having jurisdiction, or before such Mayor or other Chief Magistrate, on such day as shall be appointed for the return of such Warrant, such day not being later than *Eight Days* from the day of taking any such Security, and which Security any such Justices, Mayor, or other Chief Magistrate, are and is hereby empowered to take by way of recognizance or otherwise; but if upon the return of such Warrant it shall appear that no sufficient Distress can be had whereupon to levy the said Penalty or Forfeiture, and Costs and Expenses aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of any such Justices, Mayor or other Chief Magistrate, upon the Confession of the Offender or otherwise, that he or she hath not sufficient Goods and Chattels whereupon such Penalty or Forfeiture, Costs and Expenses could be levied if a Warrant of Distress were issued, such Justices, Mayor, or other Chief Magistrate shall not be required to issue such Warrant, but in such case such Justices, Mayor, or other Chief Magistrate is hereby required, by Warrant under their hands and seals, or his hand and seal, to commit such Offender to some Common Gaol or House of Correction for the County, City, Borough, Town or Place, there to remain without bail or mainprize for any time not exceeding *Two* calendar Months, or until such Offender shall have paid such Penalty or Forfeiture, and all

by Distress, &c.

If not sufficient Distress, Offender to be committed to Common Gaol, &c.

all Costs and Charges attending the Proceedings (to be ascertained by such Justices, Mayor or other Chief Magistrate), or shall otherwise be discharged by due course of law.

33. Persons aggrieved may appeal to Quarter Sessions.

And be it Enacted, That in England and Ireland all Persons who may think themselves aggrieved by any order, judgment or determination of any Justice of the Peace, Mayor or Chief Magistrate relating to any matter or thing in this Act mentioned or contained may, within *Fourteen Days* next after such order, judgment or determination shall have been made or given, appeal to the Justices of the Peace at the then next ensuing General or Quarter Sessions to be held for the City, Borough or County within which the alleged cause of Appeal shall arise, first giving *Seven Days'* Notice in writing of such intention to appeal, and the grounds and nature thereof to the Party against whom such complaint is intended to be made, and forthwith, after such Notice, entering into a Recognizance before some Justice of the Peace, Mayor or other Chief Magistrate, with Two sufficient Sureties, conditioned to try such appeal, and abide the order and award of the said Court thereon; and the said Justices shall either hear and determine the said Complaint at such General or Quarter Sessions, or, if they think proper, shall adjourn the hearing thereof to the following General or Quarter Sessions of the Peace to be held for such City, Borough or County; and the said Justices may, if they see cause, mitigate any Penalty or Forfeiture, and may order any Money to be returned which may have been levied in pursuance of such order or determination, and may also order any such further satisfaction to be made to the Party injured as they shall judge reasonable, and may also order such costs to be paid to the Party aggrieved by the Party aggressing as they shall think reasonable.

34. Proceedings not to be quashed for want of form.

And be it Enacted, That no Proceeding to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by Certiorari, or by any other Writ or Proceeding whatsoever into any of His Majesty's Courts of Record at Westminster or elsewhere; any law or statute to the contrary notwithstanding.

35. As to Penalties in Scotland.

And be it Enacted, That in Scotland all Penalties incurred under the Provisions of this Act, or of any of the before recited Acts, shall be recoverable, with Expenses, either before the Sheriff of the County or the Magistrates of the Burgh or Town Corporate wherein the same may be incurred, or where the Offender may reside, or before Two or more Justices of the Peace of such County, at the instance either of the Procurator Fiscal of Court, or any Person who may prosecute for the same; and the whole Penalties, after deducting

ing all Charges, and such remuneration to the Person prosecuting as the said Justices shall think fit, shall be applied in aid of the Funds liable under the Provisions of this Act, to the cost of providing and maintaining Copies of the Imperial Standard Weights and Measures in the Place where such Penalties shall be awarded; and it is hereby provided, that it shall be competent for the said Courts respectively to proceed in a summary way, and to grant Warrant for bringing the Parties complained of before them, and upon proof on oath by one or more credible Witnesses, or on the confession of the Offender, or on other legal evidence, forthwith to give Judgment on such Complaint, without any written Pleadings or Record of Evidence, and to grant Warrant for the recovery of such Penalties and Expenses discerned for, failing payment within Fourteen Days after conviction, by Poinding, or by Imprisonment for a period, at the discretion of the Court, not exceeding *Sixty Days*, it being hereby provided that a Record should be preserved of the Charge and of the Judgment pronounced.

36. Appeal in Scotland to Commissioners of Justiciary at Circuit Court.

And be it Enacted, That in Scotland, if any Person or Persons shall feel themselves aggrieved by the Sentence of any Sheriff or Magistrates of Burghs or Towns Corporate or Justices of the Peace, pronounced in any case arising under this Act, it shall be lawful for such Person or Persons to appeal to the Commissioners of Justiciary at the next Circuit Court, or, where there is no Circuit Court, to the High Court of Justiciary at Edinburgh, in the manner and under the Rules, Limitations and Conditions contained in an Act passed in the twentieth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for taking away and abolishing Heritable Jurisdictions in Scotland," with this variation only, that such Person or Persons so appealing shall, in place of finding Caution in the terms prescribed by the said Act, be bound to find Caution to pay the Penalty or Penalties and Expenses awarded against him or them by the Sentence or Sentences appealed from, in the event of the Appeal or Appeals being dismissed, together with any additional Expenses which shall be awarded by the Court in dismissing the said Appeal; and it shall not be competent to appeal from or to bring the Judgment of any Sheriff or Justices of the Peace acting under this Act under Review by Advocation, Suspension or Reduction, or in any other way other than as herein provided.

20 Geo. 2. c. 43.

37. Limitation of Actions, &c.

And be it Enacted, That in all Actions brought against any Person for any thing done in pursuance of this Act, or in the execution of the powers or authorities thereof, such Action shall be laid and brought in the county within which the cause of Action shall have arisen; and the Defendant or Defendants in such Action may plead

plead the General Issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the acts were done in pursuance or by the authority of this Act; and if they shall appear to have been so done, or that such Action shall have been brought otherwise than as hereinbefore directed, then and in every such case the Jury shall find for the Defendant or Defendants, upon which verdict, or if the Plaintiff or Plaintiffs shall become nonsuited, or shall suffer a discontinuance of his her or their Action, after the Defendant or Defendants shall have appeared thereto, or if a verdict shall pass against the Plaintiff or Plaintiffs therein, or if upon demurrer, or otherwise, judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have his her or their costs, and shall have such remedy for recovering the same, as Defendants have for recovering costs of suit by law in any other cases.

38. Plaintiff not to recover after tender of amends.

And be it Enacted, That no Plaintiff shall recover in any Action for any irregularity, trespass or other wrongful proceeding made or committed in the execution of this Act, if tender of sufficient Amends shall have been made by or on behalf of the Party or Parties who shall commit such irregularity, trespass or other wrongful proceeding before such Action brought; and in case no tender shall have been made, it shall be lawful for the Defendant or Defendants in any such Action, by leave of the Court wherein such Action shall depend at any time before issue joined, to pay into Court such sum or sums of money as he she or they shall think fit, whereupon proceedings, order and adjudication shall be had and made in and by such Court, as in other Actions where Defendants are allowed to pay money into Court.

39. 4 Anne (I.) and 5 Geo. 4. c. 110, repealed, except so far as relate to Duties, &c. of Weighmasters.

And be it Enacted, That an Act passed in the Parliament of Ireland in the fourth year of Queen Anne, intituled, "An Act for regulating Weights used in this Kingdom, and that Salt and Meal shall be sold by Weight," and another Act passed in the Parliament of the United Kingdom of Great Britain and Ireland in the fifth year of his late Majesty King George the Fourth, intituled, "An Act for the Indemnity of Magistrates using unlawful Weights in Ireland," shall be and they are hereby repealed, except in so far as they relate to the Appointment, Duties and Remuneration of Weighmasters.

40. Powers of Ward Inquests in London, &c. not to be interfered with.

Provided always, and be it Enacted, That nothing in this Act contained shall interfere with the powers of the Ward Inquests in respect to Weights and Measures within the City of London and Liberties thereof, and the Borough of Southwark, nor prohibit, defeat, injure or lessen the right of the Mayor and Commonalty and Citizens of the City of London, or of the Lord Mayor of the said City for the time being, with respect to the stamping or sealing Weights and Measures, or concerning the Office of Gauger of Wines, Oils, Honey

and other gaugeable Liquors imported and landed within the City of London and Liberties thereof.

41. Rights of Founders' Company reserved.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to prohibit, defeat, injure or lessen the rights granted by Charter to the Master, Wardens and Commonalty of the Mystery of Founders of the City of London.

42. Saving the Rights of the Universities of Oxford and Cambridge.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to prohibit, defeat, injure or lessen the rights or privileges of either of the Universities of Oxford or Cambridge, but that the custody of the Assize, Assay and overlooking of Weights and Measures in the City of Oxford and its Suburbs, and in the Town of Cambridge, shall continue as heretofore, and be in the Chancellor, Vice Chancellor or his Deputy, of the said Universities respectively; and that the Chancellor, Vice Chancellor or his Deputy of each of the said Universities for the time being, and none other, shall have the power, and is or are hereby authorized, as occasion may require, to appoint in and for the said City and Suburbs, and in and for the said Town respectively, an Inspector or Inspectors of Weights and Measures, and shall have full power and authority to propose and execute all such matters and things as are required or are granted to Justices of the Peace of any County, City, Town or other jurisdiction in England and Wales under the provisions of this Act, or by any or either of the said recited Acts; and every such Inspector is hereby authorized and empowered to put in force and execute all such powers and provisions as are by this Act, or by any or either of the said recited Acts, granted to or required of any Inspector or Inspectors of Weights and Measures, appointed as aforesaid, by the Justices of the Peace in Quarter Sessions assembled.

43. Not to abridge the power of Leet Jury, &c.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to supersede, limit take away, lessen or prevent the authority which any Person or Persons, Bodies Politic or Corporate, or any Person appointed at any Court Leet for any Hundred or Manor, or any Ward Inquest, may have or possess, for the examining, regulating, seizing, breaking or destroying any Weights, Balances or Measures within their respective jurisdictions, or the power given by any Act or Acts now in force to Justices or other authorities, to appoint Examiners for the inspection of Weights and Measures.

44. Act may be amended this Session.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed in this Session of Parliament.

SCHEDULE

1843

SCHEDULE OF FEES

To be taken by all INSPECTORS of WEIGHTS and MEASURES appointed under the Authority of this Act.

For examining, comparing and stamping all Brass Weights, within their respective Jurisdictions:

	s.	d.
Each Half Hundred Weight	–	9
Each Quarter of a Hundred Weight	–	6
Each Stone	–	4
Each Weight under a Stone to a Pound inclusive	–	1
Each Weight under a Pound	–	–½
Each set of Weights under a Pound	–	2

For examining, comparing and stamping all Iron Weights, or Weights of other Descriptions not made of Brass, within their respective Jurisdictions:

	s.	d.
Each Half Hundred Weight	–	3
Each Quarter of a Hundred Weight	–	2
Each Stone	–	1
Each Weight under a Stone	–	–½

For examining, comparing and stamping all Wooden Measures, within their respective Jurisdictions:

	s.	d.
Each Bushel	–	3
Each Half Bushel	–	2
Each Peck, and all under	–	1
Each Yard	–	–½

For examining, comparing and stamping all Measures of Capacity of Liquids, made of Copper or other Metal, within their respective Jurisdictions:

	s.	d.
Each Five Gallon	1	–
Each Four Gallon	–	9
Each Three Gallon	–	6
Each Two Gallon	–	4
Each Gallon	–	2
Each Half Gallon	–	1
Each Quart, and under	–	–½

5 WILL. IV.—Sess. 1835.

A

BILL

To Repeal an Act of the Fourth and Fifth Year of His present Majesty, relating to Weights and Measures, and to make other Provisions instead thereof.

(Prepared and brought in by Lord Viscount Ebrington, Sir George Clerk and Mr. Charles Walker.)

Ordered, by The House of Commons, *to be Printed,*
19 *June* 1835.

10 *August* 1835.

A

B I L L

[AS AMENDED ON RE-COMMITMENT]

To Repeal an Act of the Fourth and Fifth Year of His present Majesty, relating to Weights and Measures, and to make other Provisions instead thereof.

[*N.B.—The Clauses marked* (A.)(B.)*&*(C.) *were added on Re-commitment.*]

Preamble.

WHEREAS an Act was passed in the fourth and fifth years of the reign of His present Majesty, intituled, "An Act to amend and render more effectual two Acts of the Fifth and Sixth Years of the Reign of his late Majesty King GEORGE the Fourth, relating to Weights and Measures:"

And whereas it is expedient to repeal the same, and to make other provisions instead thereof; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, THAT the said Act shall be and the same is hereby Repealed.

1. Repeal of 4 & 5 Will. 4. c. 49.

Provided always, and be it Enacted, That nothing herein contained shall extend, or be construed to extend, to interfere with any acts done or appointments made under the authority of the said Act, or to prevent the suing for or recovery of any Penalty incurred by any Offence committed against the provisions of the said Act previous to the repeal thereof, in and by this Act, or to hinder or defeat any Prosecution commenced or to be brought for such Offence; but all Penalties and Forfeitures so incurred, may be sued for and recovered in the same manner as any Penalties and Forfeitures incurred under the provisions of this Act are recoverable.

2. Appointments &c. under 4 & 5 Will. 4. c. 49, not to be interfered with.

AND whereas an Act passed in the fifth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for ascertaining

3. 5 Geo. 4. c. 74.

taining and establishing uniformity of Weights and Measures: And
6 Geo. 4. c. 12. whereas another Act passed in the sixth year of the reign of his said late Majesty, intituled, "An Act to prolong the Time of the commencement of an Act of the last Session of Parliament, for ascertaining and establishing Uniformity of Weights and Measures; and to amend the said Act:" And whereas, notwithstanding the provisions of the said recited Acts, many sets of Weights and Measures of old accustomed and different shapes have been made and verified and stamped by the Chamberlains as well as by the Auditor in the Exchequer, as Models of the said new Standards, and have been used as Standard Weights and Measures under the said recited Acts, although different in shape and form from the Standards prescribed by the said recited Act of the fifth year aforesaid; and it is therefore expedient that such Standard Weights and Measures should be made legal, and that the Comptroller General, or some other Officer of the Exchequer duly authorized, should be empowered to compare and verify, and stamp as so compared and verified, Standards of Length, Weight or Measure, although not exact Models and Copies in shape and form of the respective Standards of Length, Weight and Measure deposited under the provisions of the said first-recited Acts in the Office of the said Chamberlains and Auditor: And whereas it is expedient that the use of all Weights and Measures, not in conformity with the Weights and Measures established by the said recited Acts, should be prohibited, and that the use of the Heaped Measure should be abolished; BE it therefore Enacted,

Provisions in recited Acts as to Models and Copies of Standard Weights and Measures repealed.

That so much of the said last-mentioned recited Acts as require that all Weights and Measures shall be Models and Copies in shape or form of the Standards deposited in the Exchequer, and also so much of the said recited Acts as allow the use of Weights and Measures not in conformity with the Imperial Standard Weights and Measures established by the said Acts, or allow Goods or Merchandize to be bought or sold by any Weights or Measures established by local Custom or founded on special Agreement, shall be and the same are hereby Repealed.

4. Weights and Measures stamped at the Exchequer declared legal, although not similar in Shape to those required by recited Acts.

And be it Enacted, That all Weights and Measures which have been so verified and stamped at the Exchequer at *Westminster*, as Copies of the Standard Weights and Measures, corresponding in Weight and Capacity with those established by the said recited Acts, shall be deemed and taken to be legal Weights and Measures, and may be legally used for comparison as Copies of the Imperial Standard Weights and Measures, although not similar in shape to those required under the provisions of the said recited Acts; and that the Comptroller General, or some other Officer of the Exchequer at *Westminster*, duly authorized, may compare and verify, and stamp as so compared and verified, as correct Standard Measures of a Yard, and as correct Standard Weights, and as correct Standard Measures

Superintending Officer of Exchequer may verify and stamp Weights and Measures of other form than those

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of Capacity, any Weights and Measures which shall correspond in Length, Weight and Capacity with the Standards, or parts or multiples thereof respectively, deposited in the Exchequer under the said Act of the fifth year aforesaid, although such Weights and Measures may not be Models or Copies in shape or form of the Standards so deposited as aforesaid; any thing in the said recited Acts to the contrary notwithstanding.

prescribed by the Act 5 Geo. 4. c. 74.

And be it Enacted, That all Copies of the Imperial Standard Weights and Measures which may have become defective, or have been mended in consequence of any wear or accident, shall forthwith be sent to the Exchequer at *Westminster* for the purpose of being again compared and verified, and shall be stamped as reverified Copies of the Imperial Standard Weights and Measures; provided that the Comptroller General, or other Officer appointed for such verification shall deem them fit to be used for the purposes of Standards; and every new comparison and verification shall be indorsed upon the original Indenture of verification, and such Weights and Measures shall be so stamped upon payment of Fees of verification only; and the Comptroller General or other Officer at the Exchequer duly authorized, shall keep an Account or Register of all Copies of the Imperial Standard Weights and Measures that shall have been verified at the Exchequer.

5.
Copies of the Standard Weights and Measures, which shall have been worn and mended, to be sent to the Exchequer to be re-verified.

Officer at Exchequer to keep a Register of Copies verified.

And be it Enacted, That from and after the passing of this Act, the Measure called the *Winchester* Bushel, and the Lineal Measure called the *Scotch* Ell, and all local or customary Measures shall be abolished; and every Person who shall sell, by any denomination of Measure other than one of the Imperial Measures, or some multiple, or some aliquot part, such as half, the quarter, the eighth, the sixteenth, or the thirty-second parts thereof, shall, on conviction, be liable to a Penalty not exceeding the sum of Forty Shillings for every such sale: Provided always, That nothing herein contained shall prevent the Sale of any Articles in any Vessel, where such Vessel is not represented as containing any amount of Imperial Measure, or of any fixed local or customary measure heretofore in use.

6.
Local and Customary Measures abolished.

Not to prevent Sale of Articles in Vessel, not represented as containing any amount of Imperial or local Measure.

AND whereas the Heaped Measure is liable to considerable variation; BE it therefore Enacted, That from and after the passing of this Act so much of the said recited Acts as relate to the Heaped Measure shall be and are hereby repealed, and the use of the Heaped Measure shall be abolished, and all Bargains, Sales and Contracts which shall be made after the passing of this Act by the Heaped Measure, shall be null and void; and every Person who shall sell any Articles by the Heaped Measure shall, on conviction, be liable to a penalty not exceeding Forty Shillings for every such Sale.

7.
Heaped Measure abolished.

8. Articles heretofore sold by Heaped Measure, how to be sold.

AND whereas some Articles heretofore sold by Heaped Measure are from their size and shape incapable of being stricken, and from their nature and quality may not be conveniently sold by Weight; BE it therefore Enacted, That all such Articles may henceforth be sold by a Bushel Measure, corresponding in shape with the Bushel prescribed in and by the said Act passed in the fifth year of the reign of his late Majesty, for the Sale of Heaped Measure, or by any multiple, or by some aliquot part, such as the half, the quarter, or the eighth part thereof, filled in all parts up to the level of the brim, or as nearly so as the size and shape of the Articles sold will admit: Provided always, That nothing herein contained shall prevent the sale by Weight of any Article heretofore sold by Heaped Measure.

5 Geo. 4. c. 74.

9. Clause (A.) Coals to be sold by Weight and not by Measure.

AND whereas the Sale of all wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, and Coke, by Weight, and not by Measure, would tend greatly to prevent the commission of frauds and impositions in the vend and delivery of such wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, and Coke; BE it Enacted, That from and after the First day of January One thousand eight hundred and Thirty-six, all wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, and Coke, shall be sold by Weight and not by Measure; and that all Bargains, Sales and Contracts which shall be made after the First day of January One thousand eight hundred and Thirty-six otherwise than by Weight, in respect to any wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, or Coke, shall be null and void; and every Person who shall, from and after the First day of January One thousand eight hundred and Thirty-six, sell any wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, or Coke by Measure, and not by Weight, shall, on conviction, be liable to a Penalty not exceeding Five Pounds for every such bargain, sale or contract.

10. All Articles to be sold by Avoirdupois, except as herein stated.

And be it Enacted, That from and after the passing of this Act all Articles sold by Weight shall be sold by Avoirdupois Weight, excepting Gold, Silver, Platina, Diamonds or other precious Stones, which may be sold by Troy Weight, and Drugs which, when sold by retail, may be sold by Apothecaries' Weight.

11. The Stone Weight, Hundred Weight and Ton.

AND whereas by local Customs in Markets, Towns and other Places throughout the United Kingdom, the denomination of the Stone Weight varies; BE it therefore Enacted, That from and after the passing of this Act the Weight denominated a Stone shall in all cases consist of Fourteen Standard Pounds Avoirdupois, and that the Weight denominated an Hundred Weight shall consist of Eight

such

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such Stones, and that the Weight denominated a Ton shall consist of Twenty such Hundred Weight; and all Bargains, Sales or Contracts which shall be made after the passing of this Act by any other Stone, Hundred Weight or Ton, shall be null and void: Provided always, That nothing herein contained shall prevent any Bargain, Sale or Contract being made by any multiple, or by some aliquot part, such as the half, the quarter, the eighth, or the sixteenth part of the pound weight.

12. Contents of Weights and Measures to be stamped on them.

And be it Enacted, That all Weights which shall be made after the passing of this Act of the weight of One Pound Avoirdupois, or more, shall have the number of pounds contained in every such Weight stamped or cast on the top or side thereof in legible Figures and Letters; and that all Measures of capacity, which shall be made after the passing of this Act, shall have their contents denominated, stamped or marked on the outside of such Measures in legible Figures and Letters.

13. Weights made of Lead or Pewter not to be stamped.

AND whereas the use of Weights made of soft materials affords facility to fraud; BE it therefore Enacted, That from and after the First day of January One thousand eight hundred and Thirty-six, no Weight made of Lead or of Pewter, or of any mixture thereof, shall be stamped or used: Provided always, That nothing herein contained shall prevent the use of Lead or Pewter, or of any mixture thereof, in the manufacture of Weights if they be wholly and substantially cased with Brass or Copper,, and legibly stamped or marked "Cased," or shall prevent the insertion of such a plug of Lead or Pewter into Weights as shall be bonâ fide necessary for the purpose of adjusting them, and of affixing thereon the Stamp hereinafter mentioned.

14. For ascertaining Rents and Tolls, &c. payable in England and Ireland.

AND for the purposes of ascertaining and providing for the fulfilment of all existing Contracts, and fixing the Payments to be made in consequence of such Contracts, or Rents in *England* and *Ireland* payable in Grain or Malt, or in any other commodity or thing, and in consequence of any Toll, Rate or Duty heretofore payable according to the Weights and Measures heretofore in use, where the same shall not have been already ascertained and fixed by agreement between parties, or under the provisions of the said Act of the fifth year of his late Majesty; BE it Enacted, That at the 5 Geo. 4. c. 74. General or Quarter Sessions of the Peace to be holden in every County, Riding or Division, and in every City, Town or Place (being a County of itself) in *England* or *Ireland*, next after the expiration of Three Months after the passing of this Act, or at any General or Quarter Sessions of the Peace to be holden thereafter, on the application of any Party to such Sessions, an Inquisition shall be taken before the Justices assembled at such General or Quarter Sessions, by the oaths of Twelve substantial Freeholders of the said

respective Counties, Cities, Towns or Places, having lands or tenements to the value of One Hundred Pounds per annum or upwards, to be summoned by the Sheriff or proper Officers of every such County, City, Town or Place to inquire into and ascertain the amount according to the Standard of Weight or Measure by this Act established, of all Contracts to be performed or Rents to be paid in Grain or Malt or any other commodity or thing, or with reference to the Measure or Weight of any such Grain, Malt or other commodity or thing, and the amount of any Toll, Rate or Duty heretofore payable according to any Weights and Measures heretofore in use within such Counties, Cities, Towns or Places respectively; and in taking such Inquisition care shall be taken that in every case in which Grain, Malt or Meal or any other commodity or thing having before the said First day of January One thousand eight hundred and Thirty-five, been sold by Weight shall henceforth be sold by Measure, or having before the said First day of January been sold by Measure shall henceforth be sold by Weight, no increase or diminution be made in the amount of any Rate, Toll or Duty hereafter payable for such Grain, Malt or any other commodity or thing, due regard being had to the substitution of Measure for Weight, or of Weight for Measure, as the case may be; and such Inquisitions, when taken, shall be transmitted by the respective Clerks of the Peace of the same Counties respectively, or by the Mayor, Bailiff or other head Officer of every such City, Town or Place (being a County of itself) into His Majesty's Court of Exchequer at *Westminster* and *Dublin* respectively, and shall there be enrolled of record, and shall and may be given in evidence in any Action or Suit at Law or in Equity; and the Amount so to be ascertained shall, when converted into the Standard Weights and Measures be the rule of Payment in regard to all such Contracts, Rents, Tolls, Rates or Duties in all time coming; and the Costs and Charges of such Inquisitions, and the Enrolments thereof, shall be paid and defrayed, by the Party on whose application such requisition shall be taken.

15. The like in Scotland.

AND for the purpose of ascertaining and providing for the fulfilment of all existing Contracts, and fixing the Payments to be made of all Stipends, Feu Duties, Rents, Tolls, Customs, Casualties and other demands whatsoever payable in Grain, Malt or Meal, or any other commodity or thing, in *Scotland*, or in any other place or district of the same, according to the Weights and Measures heretofore in use, when such payments shall not have been already ascertained and fixed by agreement between parties, or under the provisions of the said Act of the fifth year of his late Majesty; BE it Enacted, That the Sheriff in each Shire in *Scotland*, shall, on the application of any Party to such Sheriff, as soon as conveniently may

5 Geo. 4. c. 74.

be

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be after the expiration of Three calendar Months from and after the passing of this Act, summon and impannel a Jury of the same number and of the same qualifications which are required in the Jury who strike the Fiar Prices of Grain within the same Shire to assemble at such place or places as he shall find convenient, which Jury shall inquire into and ascertain the amount, according to the Standards by this Act established, of all such Stipends, Feu Duties, Rents, Tolls, Customs, Casualties and other Demands whatsoever payable in Grain, Malt, Meal or any other commodity or thing, according to the Weights and Measures heretofore in use within the same Shires; and in taking such Inquisition, care shall be taken that in every case in which Grain, Malt or Meal, or any other commodity or thing, having, before the First day of January One thousand eight hundred and Thirty-five, been sold by Weight shall henceforth be sold by Measure, or having, before the said First day of January, been sold by Measure shall henceforth be sold by Weight, no increase or diminution be made in the amount of any Stipend, Feu Duty, Rent, Toll, Custom or Casualty heretofore payable for such Grain, Malt, or any other commodity or thing, due regard being had to the substitution of Measure for Weight, or of Weight for Measure, as the case may be; and such Inquisitions, when taken, shall be transmitted by the respective Sheriff Clerks of such Shire, into His Majesty's Court of Exchequer at *Edinburgh*, and shall there be enrolled of record, and shall and may be given in Evidence in any Action at Law; and the Amount so to be ascertained shall, when when converted into the Standard Weights and Measures, be the rule of Payment in regard to all such Stipends, Feu Duties, Rents, Tolls, Customs, Casualties and other Demands whatsoever in all time coming; and the Costs and Charges of such Inquisitions, and the Enrolment thereof, shall be assessed and levied, paid and defrayed by the Party on whose application such Inquisition shall have been taken.

16. Regulation as to Fiar Prices of Commodities in Scotland.

And be it Enacted, That in Scotland, from and after the passing of this Act, the Fiar Prices of all Grain in every County shall be struck by the Imperial Quarter, and all other Returns of the Prices of Grain shall be set forth by the same, without any reference to any other Measure whatsoever; and that any Sheriff Clerk, Clerk of a Market, or other Person who shall offend against this Provision shall forfeit a Sum not exceeding Five Pounds.

17. Copies of the Imperial Standards to be provided by order of Quarter Sessions in England, and by Meeting of Justices in Scotland.

And be it Enacted, That in England, at the General or Quarter Sessions of the Peace next after the passing of this Act the Justices of the Peace of every County, Riding or Division, or County of a City or County of a Town in General or Quarter Sessions assembled, and in *Scotland*, the Justices of the Peace, at a Meeting to be called for

for the purpose by the Sheriff of each County, and the Magistrates of each Royal Burgh, within Three Months after the passing of this Act, and so from time to time at any subsequent General or Quarter Sessions, or Meeting so called as aforesaid, shall determine the Number of Copies of the Imperial Standard Weights and Measures which they shall deem requisite for the comparison of all Weights and Measures in use within their respective Jurisdictions, and shall direct that such Copies, verified and stamped at the Exchequer, shall be provided for the use of the same; and shall fix the Places at which such Copies shall be deposited, and shall appoint a sufficient number of Inspectors of Weights and Measures for the safe custody of such Copies, and for the discharge of the other duties hereinafter mentioned, and shall allot to each Inspector a separate District, and shall direct what reasonable remuneration shall be paid to such Inspectors; and they are hereby empowered to suspend or dismiss any Inspectors so appointed, or to appoint additional Inspectors as occasion may require: Provided always, That nothing herein contained shall extend to compel any Royal Burgh of *Scotland* (except such as are County Towns) to provide Copies of the Imperial Standard Weights and Measures, or to appoint an Inspector or Inspectors, for the performance of the duties prescribed by this Act; and that it shall be lawful for the Justices of the Peace in any County, and for the Magistrates of any Royal Burgh within such County, where they shall agree, to unite the whole, or a portion of the County with such Royal Burgh, and to appoint one Inspector therefore, and to provide at their joint expense, copies of the Imperial Standard Weights and Measures to be used within such united district.

Appointment of Inspectors.

18. Clause (B.) Extending time for operation of Act to Orkney and Zetland.

AND whereas by reason of the difficulty of communication between the parts of the Islands of *Orkney* and *Zetland*, it is expedient that further time should be allowed for bringing this Act into operation in those Islands; BE it Enacted, That this Act shall not take effect in the Islands of *Orkney* and *Zetland*, before and until the First day of May One thousand eight hundred and Thirty-six, any part of this or any other statute notwithstanding.

19. Copies to be provided by Grand Juries in Ireland;

And be it Enacted, That in *Ireland* the Grand Jury of every County, County of a City, or County of a Town shall, at the Assizes or where no Assizes are held at the presenting Term next ensuing after the passing of this Act, and so from time to time at any subsequent Assizes or presenting Term, determine the Number of Copies of the Imperial Standard Weights and Measures which they shall deem requisite for the comparison of all Weights and Measures in use within their Counties, Counties of Cities, or Counties of Towns respectively,

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respectively, and shall direct that such Copies, verified and stamped at the Exchequer, shall be provided for the use of the same; and shall fix the Places at which such Copies shall be deposited, and shall appoint a sufficient number of Inspectors of Weights and Measures for the safe custody of such Copies, and for the discharge of the other duties hereinafter mentioned, and shall allot to each Inspector a separate District, and shall direct what reasonable remuneration shall be paid to such Inspectors; and they are hereby empowered to suspend or dismiss any Inspectors so appointed, or to appoint additional Inspectors from time to time as occasion may require.

and Inspectors appointed.

20. Judges to order Copies in Counties in Ireland, when it has not been done by Grand Juries.

And be it Enacted, That in *Ireland* the senior Judge shall, before the close of the Assizes next ensuing after the passing of this Act, inquire whether One complete set of such Copies of the Imperial Standard Weights, Measures and Stamps has been provided in each County, County of a City or County of a Town; and in every case in which it shall not appear to him that One set at least of such Copies has been provided, such Judge shall forthwith order the Treasurer of the County, County of a City or County of a Town, to provide One complete set of such Copies; and every such order shall have the effect of a Presentment on the County at large for such Sum as may be necessary to procure a complete set of such Copies; and such Treasurer shall, within Three calendar Months next after he shall receive such order, fully execute the same, or failing so to do, shall forfeit the Sum of Fifty Pounds sterling.

21. Clause (C.) Magistrates to procure Stamps for Inspectors, for stamping all Weights, &c. under this Act.

And be it Enacted, That in *England* the Justices of the Peace in General or Quarter Sessions assembled, and in *Scotland* the Justices of the Peace and Magistrates at a Meeting called by the Sheriff, and in *Ireland* the Grand Jury of each County, County of a City or County of a Town, shall provide for the use of the Inspectors good and sufficient Stamps for the stamping or sealing Weights and Measures used or to be used in each and every County, Riding or Division, County of a City or County of a Town, which Stamps so provided shall be taken to be the Stamps for such County, Riding or Division, County of a City or County of a Town; and that all Weights and Measures whatsoever, except as hereinafter excepted, which shall be used for buying and selling, or for the collecting of any Tolls or Duties, or for the making of any Charges on the Conveyance of any Goods or Merchandize, shall be examined and compared with one or more of the Copies of the Imperial Standard Weights and Measures provided under the authority of this Act for the purpose of comparison by such Inspectors, who shall stamp, in such manner as best to prevent fraud, such Weights and Measures when so examined and compared, if found to correspond with the said

said Copies; and the Fees for such Examination, Comparison and Stamping shall be according to the Scale contained in the Schedule to this Act annexed; and every Person who shall use any Weight or Measure other than those authorized by this Act, or some aliquot part thereof as hereinbefore described, or which has not been so stamped as aforesaid, except as hereinafter excepted, or which shall be found light or otherwise unjust, shall, on conviction, forfeit a sum not exceeding Five Pounds; and any contract, bargain or sale made by any such Weights or Measures shall be wholly null and void, and every such light or unjust Weight and Measure so used shall, on being discovered by any Inspector so appointed as aforesaid, be seized, and on conviction of the Person using or possessing the same, shall be forfeited: Provided always, That nothing herein contained shall extend to require any single Weight above Fifty-six Pounds to be inspected and stamped, such Weight of Fifty-six Pounds being the greatest of the Imperial Standard Weights deposited in the Exchequer; and that nothing herein contained shall extend to require any wooden or wicker Measure used in the sale of Lime, or other articles of the like nature, or any Glass or Earthenware Jug or Drinking Cup, though represented as containing the amount of any Imperial Measure, or of any multiple thereof, to be stamped; but any Person buying by any Vessel represented as containing the amount of any Imperial Measure, or of any muliple thereof, is hereby authorized to require the contents of such Vessel to be ascertained by a comparison with a Stamped Measure, such Stamped Measure to be found and provided by the Person who shall use such wooden or wicker Measure, Glass, Jug or Drinking Cup as aforesaid; and in case the Person who shall use such last-mentioned Measure or Vessel shall refuse to make such comparison, or if, upon such comparison being made, such Wooden or Wicker Measure, Glass, Jug or Drinking Cup, shall be found to be deficient in quantity, the Person who shall use the same shall, on conviction, be subject to the Forfeitures and Penalties hereinbefore imposed on any Person using light or unjust Weights or Measures.

Penalty on using Weights or Measures not authorized by Act, &c.

No Weight above 56 lbs. to be inspected or stamped.

Not to require wooden or wicker Measures used in sale of Coal, or Glass, &c. to be stamped.

22. And be it Enacted, That the Expense of providing and transmitting such Copies of the Imperial Standard Weights and Measures, and of the Stamps to be used by the Inspectors, and the remuneration to the Inspectors, shall be paid in *England*, out of the Stock raised in such Counties, Ridings, Divisions or Counties of Cities; and in *Scotland*, such Expenses in the respective Shires and Stewartries, and Cities or Royal Burghs, shall be assessed by the Commissioners of Supply upon such Shires and Stewartries, and upon Cities or Royal Burghs by the Magistrates thereof, and shall be paid along with the Land Tax payable in such Shires or Stewartries, and Cities

Expense of providing Copies of Standard Weights, and Remuneration to Inspectors, to be defrayed out of County Rate, &c.

Cities or Royal Burghs to the Collectors of the Land Tax in such Shires or Stewartries, and Cities or Royal Burghs respectively; and in *Ireland* such Expenses in the respective Counties, Counties of Cities, and Counties of Towns, shall be provided for and paid by Presentments to be made by the Grand Juries on such Counties, Counties of Cities, and Counties of Towns respectively; and the Collectors of Land Tax in *Scotland* shall have such and the same powers of levying and recovering the Assessments to be made under this Act, as are competent to them for levying and recovering the said Land Tax.

23. Person employed in making or selling Weights or Measures, not to be appointed Inspector. Inspectors to enter into Recognizance.

And be it Enacted, That after the passing of this Act no maker or seller of Weights or Measures, or Person employed in the making or selling thereof, shall be appointed an Inspector of Weights and Measures under the provisions of this Act; and that every Inspector shall forthwith enter into a Bond or Recognizance to The King, to be sued for in any Court of Record, in the sum of Two hundred Pounds, for the due and punctual performance of the Duties of his Office, and for the due and punctual payment, at such time or times as he may be directed by the Justices, Magistrates or other Persons by whom he may have been appointed, of all Fees received by him under the authority of this Act, and for the safety of the Stamps and Copies of the Imperial Standard Weights and Measures committed to his charge, and for their due restoration and surrender to such Person or Persons as may be appointed to receive them by the Justices, Magistrates or other Persons aforesaid, immediately on his removal or other cessation from Office.

24. Inspectors to attend at Market Towns, when ordered by Justices, &c.

And be it Enacted, That in *England* the Justices in General or Quarter Sessions assembled, and in *Scotland* the Justices or Magistrates at a Meeting called by the Sheriff, and in *Ireland* the Grand Jury of each County, County of a City or County of a Town, shall determine and appoint on what day or days each and every such Inspector shall attend with the Stamps and Copies of the Imperial Standard Weights and Measures in his custody, at each of the several Market Towns, and at such other Places within their respective jurisdictions as they shall deem expedient, and every such Inspector so attending shall examine, compare, and stamp if found correct, all such Weights and Measures as shall be brought to him for that purpose; and he shall keep a Book, wherein he shall enter Minutes of all such Comparisons, and give, if required, a Certificate under his Hand of every such Stamping; and every Inspector shall, once in every quarter of a year, account to the Treasurer of the County, Riding, Division, County of a City or County of a Town, or to such other Persons as shall be duly authorized by those by whom he may have been appointed, for all Fees received by him under this Act, and shall pay the amount thereof to such Treasurer or other Persons as aforesaid, who shall duly account for the same.

Inspector to pay Fees to Treasurer of County, &c.

25. Power to Magistrates of Towns &c. to appoint Inspectors.

Provided always, and be it Enacted, That in all Places which have been or shall be hereafter authorized under the provisions of any Act of Parliament, whether local or otherwise, to appoint Inspectors or Examiners of Weights and Measures, and in all other Places which have been or shall be hereafter by Charter, Act of Parliament or otherwise possessed of legal Jurisdiction, and which have been or shall be hereafter provided with Copies of the Imperial Standard Weights and Measures, verified and stamped at the Exchequer, it shall be lawful for the Magistrates of such Places, or for any other Persons who may be so authorized as aforesaid, to appoint an Inspector or Inspectors of Weights and Measures within the Limits of their respective Jurisdictions; and such Inspectors so appointed shall, within such Limits exclusively, have the same Powers and discharge the same Duties as the Inspectors of Weights and Measures appointed under this Act by the County Justices or Grand Juries for their respective Counties, and shall account as aforesaid to such Persons as shall be duly authorized by those by whom they may have been appointed, for the amount of the Fees received by them: Provided always, That nothing herein contained shall prevent Inspectors appointed by County Justices or Grand Juries from coming to any Place within the Limits of such other Jurisdiction or authority as aforesaid, and there inspecting and stamping the Weights and Measures of any Person residing within the District for which such Inspectors may have been appointed; but that any Inspector knowingly stamping any Weight or Measure of any Person residing within the Limits of any local Jurisdiction for which another Inspector may have been legally appointed as aforesaid, shall forfeit a sum not exceeding Twenty Shillings for every Weight or Measure which he may so stamp.

Powers of such Inspectors.

Penalty on Inspector knowingly stamping Weight, &c. of Person residing out of District.

26. Weighmasters in Ireland to be supplied with Beams and Scales, and accurate Copies.

And be it Enacted, That in every City or Town not being a County of itself, every Individual or Individuals or Body Corporate in *Ireland*, exercising the privilege of appointing a Weighmaster, shall, on or before the First day of January One thousand eight hundred and Thirty-six, or within Three Months after the set of Copies of the Imperial Standard Weights and Measures for the County in which such right shall be exercised shall have been provided, supply such Weighmaster with accurate Beams and Scales, and with a set of accurate Copies in respect of Weight, Capacity and Length of the County set, under a Penalty of Twenty Pounds; and the accuracy of such set of Copies shall be certified under the hand of some Inspector of Weights and Measures; and such set of Copies shall, for the purpose of comparison and verification, be considered Copies of the Imperial Standard Weights and Measures required by this Act, and shall be used for no other purpose whatever, under a Penalty of Five Pounds; and once at least in every Five Years, under the like Penalty, the same shall be re-adjusted by some set of

Copies

Copies of the Standard Weights and Measures which shall have been verified by the Exchequer Standard.

27. Weights and Measures once stamped, need not be re-stamped; 4 & 5 Will. 4, c. 49.

And be it Enacted, That no Weight or Measure duly stamped by any Inspector appointed under the authority of the said Act hereby repealed, or this Act, or by any other Person or Persons legally authorized to examine and stamp any Weights or Measures, shall be liable to be re-stamped, although the same be used in any other place than that at which the same was originally stamped, but shall be considered as a legal Weight or Measure throughout the United Kingdom, unless found to be defective or unjust.

28. Power to Justices and Inspectors to enter Shops, and inspect Weights and Measures.

And be it Enacted, That in *England* and *Ireland* it shall be lawful for every Justice of the Peace of any County, Riding or Division, or of any City or Town, and in *Scotland* for every Sheriff, Justice or Magistrate of any Borough or Town, or for any Inspector authorized in writing under the hand of any Justice of the Peace in *England* and *Ireland*, or of any Sheriff, Justice or Magistrate in *Scotland*, to enter any Shop, Store, Warehouse, Stall, Yard or Place whatsoever, within his Jurisdiction, wherein Goods shall be exposed or kept for Sale, or shall be weighed for Conveyance or Carriage, and there to examine all Weights, Measures, Steelyards or other Weighing Machines, and to compare and try the same with the Copies of the Imperial Standard Weights and Measures required or authorized to be provided under this Act; and if upon such Examination it shall appear that the said Weights or Measures are light or otherwise unjust, the same shall be liable to be seized and forfeited, and the Person or Persons in whose possession the same shall be found shall, on conviction, forfeit a Sum not exceeding Five Pounds; and any Person who shall have in his or her possession a Steelyard or other Weighing Machine which shall on such Examination be found incorrect, or otherwise unjust, or who shall neglect or refuse to produce for such Examination, when thereto required, all Weights, Measures, Steelyards or other Weighing Machines which shall be in his or her possession, or shall otherwise obstruct or hinder such examination, shall be liable to a like Penalty.

29. Penalty on Inspector for neglect of duty, or for misconduct.

And be it Enacted, That in case any Inspector of Weights and Measures shall be guilty of a breach of any duty imposed upon him by this Act, or shall wilfully disobey any of the orders or directions of the Justices, Magistrates or Grand Juries respectively, made in pursuance of this Act, or shall otherwise misconduct himself in the execution of his office, every such Offender shall upon conviction forfeit a Sum not exceeding Five Pounds for every such offence.

30. Penalty for counterfeiting Stamps on Weights and Measures.

And be it Enacted, That if any Person or Persons shall make, forge or counterfeit, or cause or procure to be made, forged or counterfeited, or knowingly act or assist in the making, forging or counterfeiting any Stamp or Mark now used, or which may hereafter be used for the stamping or marking of any Weights or Measures under this Act, shall for every such offence forfeit, on conviction, a Sum not exceeding Fifty Pounds or less than Ten Pounds; and if any Person shall knowingly sell, utter, dispose of, or expose to sale any Weight or Measure with such forged or counterfeit Stamp or Mark thereon, every Person so offending shall for every such offence forfeit, on conviction, a Sum not exceeding Ten Pounds or less than Forty Shillings; and that all Weights and Measures with such forged or counterfeited Stamps or Marks shall be forfeited and broken up, and the proceeds thereof shall be disposed of in the manner hereinafter mentioned.

31. Penalty on Price Lists, &c. denoting greater or less Weight or Measure than the same denomination of Imperial Weight or Measure.

And be it Enacted, That from and after the First day of January One thousand eight hundred and Thirty-six, if any Person or Persons shall print, or if the Clerk of any Market or other Person shall make any Return Price List, Price Current, or any Journal or other Paper containing Price List or Price Current, in which the denomination of Weights and Measures quoted or referred to shall denote or imply a greater or less Weight or Measure than is denoted or implied by the same denomination of the Imperial Weights and Measures under and according to the provisions of this Act, such Person or Persons or Clerk of Market shall forfeit and pay any sum not exceeding Ten Shillings for every copy of every such Return Price List, Price Current, Journal or other Paper, which he or they shall publish.

32. As to Penalties in England and Ireland. 5 Geo. 4. c. 74.

And be it Enacted, That all Penalties and Forfeitures which shall be incurred under any of the Provisions of the said recited Act of the fifth year aforesaid, or this Act, after deducting so much thereof, or not exceeding a moiety to be paid to the Party on whose Information the Conviction shall take place, as the Justice before whom the Party is convicted shall think fit; shall be paid to the Treasurer of such County, Riding or Division, County of a City, Corporate Town or other place in which they shall be respectively recovered, or to such other Person as shall be duly authorized to receive the same, and be applied to and make part of the County Stock, or of such other Funds as shall be liable, under the Provisions of this or any other Act, to the Cost of providing and maintaining Copies of the Imperial Standard Weights and Measures; any thing in the said recited Act of the fifth year aforesaid to the contrary notwithstanding.

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33. Form of Conviction.

And be it Enacted, That in all Counties, Ridings or Divisions in *England* and *Ireland*, all Penalties and Forfeitures under this Act shall be sued for before Two or more Justices of the Peace at Petty Sessions, or before the Mayor or other Chief Magistrate of any City, Borough, Town or Place within whose Jurisdiction the Offence shall have been committed, and that the Conviction may be drawn up according to the following Form, or in words to the like effect:

"BE it Remembered, That on the day of in the year of our Lord *A. B.* is convicted before us, Two of His Majesty's Justices of the Peace [*or*, before me the Mayor or Chief Magistrate of the City, Borough, &c. of] for the [*here specify the Offence, and the Time and Place when and where committed, as the case may be*], contrary to an Act passed in the year of the reign of King WILLIAM the Fourth, intituled, &c. [*as the case may be*]; and We [*or*, I] do adjudge that the said *A. B.* hath forfeited for his [*or*, her] said Offence the Sum of [*here insert the Penalty*]. Given under our hands and seals [*or*, my hand and seal] the day and year first above written."

34. Recovery of Penalties;

And be it Enacted, That in *England* and *Ireland* all Penalties and Forfeitures inflicted or imposed by this Act, may, in case of non-payment thereof, be recovered in a summary way by the order and adjudication of Two or more Justices of the Peace at Petty Sessions, or before the Mayor or other Chief Magistrate of any City, Borough, Town or Place, within whose jurisdiction the offence shall have been committed, on complaint to them or him for that purpose made, and afterwards be levied, as well as the Costs (if any) of such Proceedings, on non-payment, by Distress and Sale of the Goods and Chattels of the respective Offenders by Warrant under the hands and seals of such Justices, or hand and seal of such Mayor or other Chief Magistrate, who is and are hereby authorized and required to summon and examine any Witnesses of or concerning such Offence, and to hear and determine the same, and the overplus (if any) of the Money so raised or recovered, after discharging such Penalties or Forfeitures, and the Costs and Expenses as aforesaid, shall be returned on demand to the respective Owners of the Goods and Chattels so seized and distrained; and in case any such Penalty or Forfeiture shall not be forthwith paid, it shall be lawful for the said Justices, Mayor or other Chief Magistrate, to order any Offender so convicted to be detained in safe custody, until return can be conveniently made to such Warrant of Distress, unless such Offender can give sufficient Security to the satisfaction of such Justices, Mayor or other Chief Officer, for his or her appearance

by Distress, &c.

before the said Justices, or before some other Justices having jurisdiction, or before such Mayor or other Chief Magistrate, on such day as shall be appointed for the return of such Warrant, such day not being later than Eight Days from the day of taking any such Security, and which Security any such Justices, Mayor, or other Chief Magistrate, are and is hereby empowered to take by way of recognizance or otherwise; but if upon the return of such Warrant it shall appear that no sufficient Distress can be had whereupon to levy the said Penalty or Forfeiture, and Costs and Expenses aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of any such Justices, Mayor or other Chief Magistrate, upon the Confession of the Offender or otherwise, that he or she hath not sufficient Goods and Chattels whereupon such Penalty or Forfeiture, Costs and Expenses could be levied if a Warrant of Distress were issued, such Justices, Mayor, or other Chief Magistrate shall not be required to issue such Warrant, but in such case such Justices, Mayor, or other Chief Magistrate is hereby required, by Warrant under their hands and seals, or his hand and seal, to commit such Offender to some Common Gaol or House of Correction for the County, City, Borough, Town or Place, there to remain without bail or mainprize for any time not exceeding Two calendar Months, or until such Offender shall have paid such Penalty or Forfeiture, and all Costs and Charges attending the Proceedings (to be ascertained by such Justices, Mayor or other Chief Magistrate), or shall otherwise be discharged by due course of law.

If not sufficient Distress, Offender to be committed to Common Gaol, &c.

35. And be it Enacted, That in England and Ireland all Persons who may think themselves aggrieved by any order, judgment or determination of any Justice of the Peace, Mayor or Chief Magistrate relating to any matter or thing in this Act mentioned or contained may, within Fourteen Days next after such order, judgment or determination shall have been made or given, appeal to the Justices of the Peace at the then next ensuing General or Quarter Sessions to be held for the City, Borough or County within which the alleged cause of Appeal shall arise, first giving Seven Days' Notice in writing of such intention to appeal, and the grounds and nature thereof to the Party against whom such complaint is intended to be made, and forthwith, after such Notice, entering into a Recognizance before some Justice of the Peace, Mayor or other Chief Magistrate, with Two sufficient Sureties, conditioned to try such appeal, and abide the order and award of the said Court thereon; and the said Justices shall either hear and determine the said Complaint at such General or Quarter Sessions, or, if they think proper, shall adjourn the hearing thereof to the following General or Quarter Sessions of the Peace to be held for such City, Borough or County; and the said Justices may, if they see cause, mitigate any Penalty or

35. Persons aggrieved may appeal to Quarter Sessions.

or Forfeiture, and may order any Money to be returned which may have been levied in pursuance of such order or determination, and may also order any such further satisfaction to be made to the Party injured as they shall judge reasonable, and may also order such costs to be paid to the Party aggrieved by the Party aggressing as they shall think reasonable.

36. Proceedings not to be quashed for want of form.

And be it Enacted, That no Proceeding to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by Certiorari, or by any other Writ or Proceeding whatsoever into any of His Majesty's Courts of Record at *Westminster* or elsewhere; any law or statute to the contrary notwithstanding

37. As to Penalties in Scotland.

And be it Enacted, That in *Scotland* all Penalties incurred under the Provisions of this Act, or of any of the before recited Acts, shall be recoverable, with Expenses, either before the Sheriff of the County or the Magistrates of the Burgh or Town Corporate wherein the same may be incurred, or where the Offender may reside, or before Two or more Justices of the Peace of such County, at the instance either of the Procurator Fiscal of Court, or any Person who may prosecute for the same; and the whole Penalties, after deducting all Charges, and such remuneration to the Person prosecuting as the said Justices shall think fit, shall be applied in aid of the Funds liable under the Provisions of this Act, to the cost of providing and maintaining Copies of the Imperial Standard Weights and Measures in the Place where such Penalties shall be awarded; and it is hereby provided, that it shall be competent for the said Courts respectively to proceed in a summary way, and to grant Warrant for bringing the Parties complained of before them, and upon proof on oath by one or more credible Witnesses, or on the confession of the Offender, or on other legal evidence, forthwith to give Judgment on such Complaint, without any written Pleadings or Record of Evidence, and to grant Warrant for the recovery of such Penalties and Expenses decerned for, failing payment within Fourteen Days after conviction, by Poinding, or by Imprisonment for a period, at the discretion of the Court, not exceeding Sixty Days, it being hereby provided that a Record should be preserved of the Charge and of the Judgment pronounced.

38. Appeal in Scotland to Commissioners of Justiciary at Circuit Court.

And be it Enacted, That in *Scotland*, if any Person or Persons shall feel themselves aggrieved by the Sentence of any Sheriff or Magistrates of Burghs or Towns Corporate or Justices of the Peace, pronounced in any case arising under this Act, it shall be lawful for such Person or Persons to appeal to the Commissioners of Justiciary at the next Circuit Court, or, where there is no Circuit Court, to the

High Court of Justiciary at *Edinburgh*, in the manner and under the Rules, Limitations and Conditions contained in an Act passed in the twentieth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for taking away and abolishing Heritable Jurisdictions in *Scotland*," with this variation only, that such Person or Persons so appealing shall, in place of finding Caution in the terms prescribed by the said Act, be bound to find Caution to pay the Penalty or Penalties and Expenses awarded against him or them by the Sentence or Sentences appealed from, in the event of the Appeal or Appeals being dismissed, together with any additional Expenses which shall be awarded by the Court in dismissing the said Appeal; and it shall not be competent to appeal from or to bring the Judgment of any Sheriff or Justices of the Peace acting under this Act under Review by Advocation, Suspension or Reduction, or in any other way other than as herein provided.

20 Geo. 2. c. 43.

39. Limitation of Actions, &c.

And be it Enacted, That in all Actions brought against any Person for any thing done in pursuance of this Act, or in the execution of the powers or authorities thereof, such Action shall be laid and brought in the county within which the cause of Action shall have arisen; and the Defendant or Defendants in such Action may plead the General Issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the acts were done in pursuance or by the authority of this Act; and if they shall appear to have been so done, or that such Action shall have been brought otherwise than as hereinbefore directed, then and in every such case the Jury shall find for the Defendant or Defendants, upon which verdict, or if the Plaintiff or Plaintiffs shall become nonsuited, or shall suffer a discontinuance of his her or their Action, after the Defendant or Defendants shall have appeared thereto, or if a verdict shall pass against the Plaintiff or Plaintiffs therein, or if upon demurrer, or otherwise, judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have his her or their costs, and shall have such remedy for recovering the same, as Defendants have for recovering costs of suit by law in any other cases.

40. Plaintiff not to recover after tender of amends.

And be it Enacted, That no Plaintiff shall recover in any Action for any irregularity, trespass or other wrongful proceeding made or committed in the execution of this Act, if tender of sufficient Amends shall have been made by or on behalf of the Party or Parties who shall commit such irregularity, trespass or other wrongful proceeding before such Action brought; and in case no tender shall have been made, it shall be lawful for the Defendant or Defendants in any such Action, by leave of the Court wherein such Action shall depend at any time before issue joined, to pay into

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into Court such sum or sums of money as he she or they shall think fit, whereupon proceedings, order and adjudication shall be had and made in and by such Court, as in other Actions where Defendants are allowed to pay money into Court.

41. 4 Anne (I.) and 5 Geo. 4. c. 110, repealed, except so far as relate to Duties, &c. of Weighmasters.

And be it Enacted, That an Act passed in the Parliament of *Ireland* in the fourth year of Queen ANNE, intituled, "An Act for regulating Weights used in this Kingdom, and that Salt and Meal shall be sold by Weight," and another Act passed in the Parliament of the United Kingdom of *Great Britain* and *Ireland* in the fifth year of his late Majesty King GEORGE the Fourth, intituled, "An Act for the Indemnity of Magistrates in proceedings against Persons using unlawful Weights in *Ireland*," shall be and they are hereby repealed, except in so far as they relate to the Appointment, Duties and Remuneration of Weighmasters.

42. Powers of Ward Inquests in London, &c. not to be interfered with.

Provided always, and be it Enacted, That nothing in this Act contained shall interfere with the powers of the Ward Inquests in respect to Weights and Measures within the City of *London* and Liberties thereof, and the Borough of *Southwark*, nor prohibit, defeat, injure or lessen the right of the Mayor and Commonalty and Citizens of the City of *London*, or of the Lord Mayor of the said City for the time being, with respect to the stamping or sealing Weights and Measures, or concerning the Office of Gauger of Wines, Oils, Honey and other gaugeable Liquors imported and landed within the City of *London* and Liberties thereof.

43. Rights of Founders' Company reserved.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to prohibit, defeat, injure or lessen the rights granted by Charter to the Master, Wardens and Commonalty of the Mystery of Founders of the City of *London*.

44. Saving the Rights of the Universities of Oxford and Cambridge.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to prohibit, defeat, injure or lessen the rights or privileges of either of the Universities of *Oxford* or *Cambridge*, but that the custody of the Assize, Assay and overlooking of Weights and Measures in the City of *Oxford* and its Suburbs, and in the Town of *Cambridge*, shall continue as heretofore, and be in the Chancellor, Vice Chancellor or his Deputy, of the said Universities respectively; and that the Chancellor, Vice Chancellor or his Deputy of each of the said Universities for the time being, and none other, shall have the power, and is or are hereby authorized, as occasion may require, to appoint in and for the said City and Suburbs, and in and for the said Town respectively, an Inspector or Inspectors of Weights and Measures, and shall have full power and authority to perform and execute all such matters and things as are required or are granted to Justices of the Peace of any County, City,

Town or other jurisdiction in *England* and *Wales* under the provisions of this Act, or by any or either of the said recited Acts; and every such Inspector is hereby authorized and empowered to put in force and execute all such powers and provisions as are by this Act, or by any or either of the said recited Acts, granted to or required of any Inspector or Inspectors of Weights and Measures, appointed as aforesaid, by the Justices of the Peace in Quarter Sessions assembled.

45. Not to abridge the power of Leet Jury, &c.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to supersede, limit take away, lessen or prevent the authority which any Person or Persons, Bodies Politic or Corporate, or any Person appointed at any Court Leet for any Hundred or Manor, or any Jury or Ward Inquest, may have or possess, for the examining, regulating, seizing, breaking or destroying any Weights, Balances or Measures within their respective jurisdictions, or the power given by any Act or Acts now in force to Justices or other authorities, to appoint Examiners for the inspection of Weights and Measures.

46. Act may be amended this Session.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed in this Session of Parliament.

SCHEDULE

SCHEDULE OF FEES

To be taken by all INSPECTORS of WEIGHTS and MEASURES appointed under the Authority of this Act.

For examining, comparing and stamping all Brass Weights, within their respective Jurisdictions:

	s.	d.
Each Half Hundred Weight	–	9
Each Quarter of a Hundred Weight	–	6
Each Stone	–	4
Each Weight under a Stone to a Pound inclusive	–	1
Each Weight under a Pound	–	–½
Each set of Weights of a Pound and under	–	2

For examining, comparing and stamping all Iron Weights, or Weights of other Descriptions not made of Brass, within their respective Jurisdictions:

	s.	d.
Each Half Hundred Weight	–	3
Each Quarter of a Hundred Weight	–	2
Each Stone	–	1
Each Weight under a Stone	–	–½
Each set of Weights of a Pound and under	–	2

For examining, comparing and stamping all Wooden Measures, within their respective Jurisdictions:

	s.	d.
Each Bushel	–	3
Each Half Bushel	–	2
Each Peck, and all under	–	1
Each Yard	–	–½

For examining, comparing and stamping all Measures of Capacity of Liquids, made of Copper or other Metal, within their respective Jurisdictions:

	s.	d.
Each Five Gallon	1	–
Each Four Gallon	–	9
Each Three Gallon	–	6
Each Two Gallon	–	4
Each Gallon	–	2
Each Half Gallon	–	1
Each Quart, and under	–	–½

6 WILL. IV.—Sess. 1835.

A

B I L L

[AS AMENDED ON RE-COMMITMENT]

To Repeal an Act of the Fourth and Fifth Year of His present Majesty, relating to Weights and Measures, and to make other Provisions instead thereof.

(Prepared and brought in by Lord Viscount Ebrington, Sir George Clerk and Mr. Charles Walker.)

Ordered, by The House of Commons, *to be Printed,*
10 *August* 1835.

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WEIGHTS AND MEASURES BILL.

Clauses

To be proposed by Lord *George Bentinck.*

AND whereas the Sale of all wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, and Coke, by Weight, and not by Measure, would tend greatly to prevent the commission of frauds and impositions in the vend and delivery of such wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, and Coke; BE it further Enacted, That from and after the *First* day of *January One thousand eight hundred and Thirty-six*, all wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, and Coke, shall be sold by Weight, and not by Measure.

And be it further Enacted, That all Bargains, Sales and Contracts which shall be made in respect to any wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, or Coke, from and after the *First* day of *January One thousand eight hundred and Thirty-six*, shall be null and void; and every Person who shall, from and after the *First* day of *January One thousand eight hundred and Thirty-six*, sell any wrought Coals, Slack, Culm, Cannel of every description, Cinders for burning, or Coke, by Measure, and not by Weight, shall, on conviction, be liable to a Penalty not exceeding *Five* Pounds for every such bargain, sale or contract.

CLAUSES

To be proposed by Lord *George Bentinck*.

July 1835.

4 *March* 1835.

A

B I L L

FOR

The Amendment of the Laws with respect to Wills.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

BE it Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say) the word "Will" shall extend to a Testament and to a Codicil, and to an Appointment by Will or by writing in the nature of a Will in exercise of a Power, and also to a disposition by Will and Testament or devise of the Custody and Tuition of any Child, by virtue of an Act passed in the twelfth year of the reign of King CHARLES the Second, intituled, "An Act for taking away the Court of Wards and Liveries and Tenures in Capite, and by Knights Service and Purveyance, and for settling a Revenue upon his Majesty in lieu thereof," or by virtue of an Act passed in the Parliament of Ireland, in the fourteenth and fifteenth years of the reign of King CHARLES the Second, intituled, "An Act for taking away the Court of Wards and Liveries and Tenures in Capite, and by Knights Service," and to any other testamentary disposition; and the words "Real Estate" shall extend to Manors, Advowsons, Messuages, Lands, Tithes, Rents and Hereditaments, whether corporeal or incorporeal, and whether Freehold, Customary Freehold, Tenant Right, Customary or Copyhold, or of any

1. Meaning of the Words in the Act.

"Will."

"Real Estate."

any other tenure, and to any undivided share thereof, and to any estate, right or interest (other than a chattel interest) therein; and the words "Personal Estate" shall extend to Leasehold Estates and other Chattels Real, and also to Monies, Shares of Government and other Funds, Securities for Money (not being Real Estates), Debts, Choses in Action, Rights, Credits, Goods and all other Personal Property whatsoever, and any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

"Personal Estate."

"Number."

"Gender."

2.

Repeal of the Statutes of Wills: 32 Hen. 8, c. 1, and 34 & 35 Hen. 8, c. 5.

And be it further Enacted, That an Act passed in the thirty-second year of the reign of King HENRY the Eighth, intituled, "The Act of Wills, Wards and Primer Seisins, whereby a Man may devise two parts of his Land;" and also an Act passed in the thirty-fourth and thirty-fifth years of the reign of the said King HENRY the Eighth, intituled, "The Bill concerning the Explanation of Wills;" and also an Act passed in the Parliament of Ireland, in the tenth year of the reign of King CHARLES the First, intituled, "An Act how Lands, Tenements, &c., may be disposed by Will or otherwise, and concerning Wards and Primer Seisins;" and also so much of an Act passed in the twenty-ninth year of the reign of King CHARLES the Second, intituled, "An Act for Prevention of Frauds and Perjuries; and of an Act passed in the Parliament of Ireland, in the seventh year of the reign of King WILLIAM the Third, intituled, "An Act for Prevention of Frauds and Perjuries," as relates to Devises or Bequests of Lands or Tenements, or to the revocation or alteration of any devise in writing of any Lands, Tenements or Hereditaments, or any clause thereof, or to the devise of any Estate pur autre vie, or to any such Estate being assets, or to Nuncupative Wills, or to the repeal altering or changing of any Will in writing, concerning any Goods or Chattels, or Personal Estate, or any clause, devise or bequest therein; and also so much of an Act passed in the fourth and fifth years of the reign of Queen ANNE, intituled, "An Act for the Amendment of the Law and the better Advancement of Justice;" and of an Act passed in the Parliament of Ireland in the sixth year of the reign of Queen ANNE, intituled, "An Act for the Amendment of the Law and the better Advancement of Justice," as relates to Witnesses to Nuncupative Wills; and also so much of an Act passed in the fourteenth year of the reign of King GEORGE the Second, intituled, "An Act to amend the Law concerning Common Recoveries, and to explain and amend an Act made in the twenty-ninth year of the reign of King CHARLES the Second, intituled, 'An Act for the Prevention of Frauds and Perjuries,'" as relates to Estates pur autre vie; and also an Act passed in the twenty-fifth year of the reign of King GEORGE the Second, intituled, "An Act

10 Chas. 1, Sess. 2, c. 2. (I.)

Sec. 5, 6, 12, 19, 20, 21 & 22, of the Statute of Frauds. 29 Chas. 2, c. 3.

7 Will. 3, c. 12. (I.)

Sec. 14, of 4 & 5 Anne, c. 16.

6 Anne, c. 10. (I.)

Sec. 9, of 14 Geo. 2, c. 20.

25 Geo. 2, c. 6, (except as to the Colonies;)

Act for avoiding and putting an end to certain Doubts and Questions relating to the Attestation of Wills and Codicils concerning Real Estates in that part of Great Britain called England, and in his Majesty's Colonies and Plantations in America," except so far as relates to His Majesty's Colonies and Plantations in America; and also an Act passed in the Parliament of Ireland in the same twenty-fifth year of the reign of King GEORGE the Second, intituled, "An Act for the avoiding and putting an end to certain Doubts and Questions relating to the Attestations of Wills and Codicils concerning Real Estates;" and also an Act passed in the fifty-fifth year of the reign of King GEORGE the Third, intituled, "An Act to remove certain Difficulties in the Disposition of Copyhold Estates by Will," shall be and the same are hereby Repealed, except so far as the same Acts or any of them respectively relate to any Wills or Assets to which this Act does not extend.

25 Geo. 2, c. 11. (I.)

and 55 Geo. 3, c. 192.

3.
All Property may be disposed of by Will.

And be it further Enacted, That it shall be lawful for every Person to devise, bequeath, or dispose of, by his Will executed in manner hereinafter required, all such Real Estate, and also (subject to the rights and powers of his executors or administrators) all such Personal Estate as he shall be entitled to, either at law or in equity, except any Real Estate to which he shall be entitled for an Estate Tail or an Estate in quasi Entail, and any Real or Personal Estate or share thereof to which he shall be entitled as joint tenant, and which may survive by his death to some other Person.

Stat. of Wills, 32 Hen. 8, c. 1, s. 1.

except Estates Tail and Estates held in joint Tenancy.

4.
Property acquired after the execution of the Will, may pass by it.

And be it further Enacted, That it shall be lawful for every Person to devise, bequeath, or dispose of, by his Will executed in manner hereinafter required, any such Real Estate and Personal Estate, as hereinbefore are mentioned, (except as aforesaid) to which he may be entitled at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his Will.

5.
Contingent interest may be disposed of by Will.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all contingent and executory and other future interests in any Real Estate or Personal Estate, (except as aforesaid) whether the Testator may or may not be ascertained as the Person or one of the Persons in whom the same may become vested, and whether he may be entitled thereto under the instrument by which the same was created, or under any disposition thereof by Deed or Will: and every Person to whom any such interest, or any part thereof, may be disposed of by Will, shall be entitled to the same interest, or such part thereof as may be disposed of to him, and the same actions, suits and remedies for the same, as the Person originally entitled thereto, his heirs, executors or administrators, would have been entitled to, if no disposition thereof had

been made: Provided always, That no Person shall be empowered by this Act to dispose of any expectancy which he may have as heir or heir of the body inheritable to any Real Estate, or as next of kin under the Statutes for the distribution of the Estates of Intestates of a Person entitled to any Personal Estate who shall survive him, or under any Deed which shall not be executed in his lifetime, or under the Will of any Person who shall survive him, (except under any devise or bequest in the Will of his ancestor, which, in pursuance of the provision hereinafter contained, shall not lapse by the death of such Person in the lifetime of such ancestor.)

6.

Rights of Entry and of Action or Suit may be disposed of by Will.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all such rights of entry for condition broken, and other rights of entry, and of action or suit, to any Real Estate or Personal Estate as would (if this Act had not been made) have become vested in the heir or customary heir, or executor or administrator of the Testator.

7.

Powers of devising to extend to Customary Freeholds and Copyholds, which cannot now be devised.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all Real Estate of the nature of Customary Freehold, or Tenant Right, or Customary, or Copyhold, or of any other tenure, which in consequence of the want of a custom to devise, or to surrender to the use of a Will or otherwise, could not have been disposed of by Will if this Act had not been made; and the Will by which such disposition shall be made shall be enrolled in the Court Rolls, or Manorial Books of the Lord of the Manor, or reputed Manor of which such Real Estate shall be held, and the same fine, heriot, dues, duties and services shall be paid and rendered by the Devisee as would have been due from the customary heir in case of the descent of the same Real Estate, and the Lord shall have the same remedies for recovering and enforcing such fine, heriot, dues, duties and services, as he is entitled to for enforcing and recovering the same against the customary heir in case of a descent.

8.

Customary Freeholds and Copyholds, which might have been surrendered to the use of a Will, may be devised without such surrender. 55 Geo. 3, c. 192, s. 1.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all Real Estate of the nature of Customary Freehold, or Tenant Right, or Customary, or Copyhold, which by the custom of the Manor of which the same is holden, might be surrendered to the use of a Will, notwithstanding that the Testator shall not have surrendered the same to the use of his Will.

9.

Customary Freehold and Copyhold Land may be devised before admittance.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all Real Estate of the nature of Customary Freehold, or Tenant Right, or Customary, or Copyhold, to which the Testator, as Devisee or otherwise, shall have been entitled

entitled to be admitted, notwithstanding that he shall not have been admitted thereto.

10.
Devisees of Customary and Copyhold Estates, capable of being surrendered to the use of the Will, to pay where there has been no such surrender the like Fees as would have been payable on such surrender; and also where the Testator was entitled to admittance, and was not admitted, and might, after admittance, have surrendered to the use of his Will, the like Fine and Fees as would have been payable on such admittance and surrender.
55 Geo. 3. c. 192, s. 2.

Provided always, and be it further Enacted, That where any Customary Freehold or Tenant Right, or Customary, or Copyhold Real Estate might, by the custom of the Manor of which the same is holden, have been surrendered to the use of a Will, and the Testator shall not have surrendered the same to the use of his Will, no Person entitled or claiming to be entitled to such Real Estate by virtue of such Will, shall be entitled to be admitted to the same Real Estate by virtue thereof, except upon payment of all such Stamp Duties, Fees, and Sums of Money as would have been lawfully due and payable in respect of the surrendering of such Real Estate to the use of the Will, or in respect of presenting, registering, or enrolling such Surrender, if the same Real Estate had been surrendered to the use of the Will of such Testator: Provided also, That where the Testator was entitled to have been admitted to such Real Estate, and might if he had been admitted thereto have surrendered the same to the use of his Will, and shall not have been admitted thereto, and could not without such admitance have devised the same Real Estate if this Act had not been made, no Person entitled or claiming to be entitled to such Real Estate, in consequence of such Will, shall be entitled to be admitted to the same Real Estate by virtue thereof, except on payment of all such Stamp Duties, Fees, Fine, and Sums of Money as would have been lawfully due and payable in respect of the admittance of such Testator to such Real Estate, and also of all such Stamp Duties, Fees, and Sums of Money as would have been lawfully due and payable in respect of surrendering such Real Estate to the use of the Will, or of presenting, registering, or enrolling such Surrender, had the Testator been duly admitted to such Real Estate, and afterwards surrendered the same to the use of his Will: all which Stamp Duties, Fees, Fine, or Sums of Money due as aforesaid, shall be paid in addition to the Stamp Duties, Fees, Fine, or Sums of Money due or payable on the admittance of such Person so entitled or claiming to be entitled to the same Real Estate as aforesaid.

11.
All Estates pur autre vie to be devisable.
Statute of Frauds, 29 Cha. 2, c. 3, s. 12.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to an Estate pur autre vie, whether there shall or shall not be any special occupant thereof, and whether the same shall be Freehold or Customary Freehold, Tenant Right, Customary, or Copyhold, or of any other tenure, and whether the same shall be a corporeal or an incorporeal hereditament.

12.
Estates pur autre vie in Freehold to be Assets in the hands of the Heir

And be it further Enacted, That if no disposition by Will shall be made of any Estate pur autre vie of a Freehold nature, the same shall be chargeable in the hands of the heir, if it shall come to him

where special occupant, and where there is no special occupant, or the Executors or Administrators are special occupants, to go to the Executors or Administrators, and be applied like the Personal Estate. 29 Chas. 2, c. 3, s. 12.

by reason of special occupancy as assets by descent, as in the case of Freehold Land in fee-simple; and in case there shall be no special occupant of any Estate pur autre vie, whether Freehold, or Customary Freehold, or Copyhold, or of any other tenure, and whether a corporeal or incorporeal hereditament, it shall go to the Executor or Administrator of the Party that had the Estate thereof by virtue of the grant; and if the same shall come to the Executor or Administrator, either by reason of a special occupancy or by virtue of this Act, it shall be assets in his hands, and shall go and be applied and distributed in the same manner as the Personal Estate of the Testator or Intestate.

14 Geo. 2, c. 20, s. 9.

13. An Infant not to be capable of making a Will.

Provided always, and be it further Enacted, That no Will made by any Person under the age of *Twenty-one* Years shall be valid.

14. A feme covert not to be capable of making a Will, except of her separate property, by virtue of a power or of personalty with the Husband's consent, or to continue an Executorship.

Provided also, and be it further Enacted, That no Will made by any married Woman shall be valid (except a Will of Real Estate or Personal Estate, to which she may be entitled for her separate use, or an appointment by Will in pursuance of a power of appointment to be exercised by her notwithstanding her coverture, or a Will made with the consent of her Husband of Personal Estate, or a Will for appointing an Executor to a Will of which she shall be the Executrix).

15. No devise to a Corporation to be valid, except when authorized by Act of Parliament. 34 & 35 Hen. 8, c. 5, s. 4.

Provided also, and be it further Enacted, That no Devise or other disposition by Will of any Real Estate to any Body Politic or Corporate shall be valid, unless such Body Politic or Corporate is empowered by any Act of Parliament to acquire Real Estate by devise.

16. Every Will shall be in writing, and signed by the Testator, in the presence of Two Witnesses at one time, who shall subscribe their Names.

Sec. 5. of the Statute of Frauds.

And be it further Enacted, That no Will shall be valid unless it shall be executed in manner hereinafter mentioned; (that is to say) it shall be signed at the foot or end thereof by the Testator, or by some other Person in his presence and by his direction, and such signature shall be made or acknowledged by the Testator in the presence of *Two* or more credible Witnesses present at the same time, and such Witnesses shall subscribe their Names to the Will, but no form of attestation shall be necessary.

17. Appointments by Will to be executed like other Wills, and to be valid, although other Solemnities required by the power are not observed.

And be it further Enacted, That no appointment made by Will in exercise of any power, shall be valid, unless the same be executed in manner hereinbefore required; and every Will executed in manner hereinbefore required, shall be a valid execution of a power of appointment by Will, notwithstanding it may have been expressly required that a Will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

Provided

18.

Soldiers' & Mariners' Wills excepted.
Sec. 23 of the Statute of Frauds.

Provided always, and be it further Enacted, That any Soldier being in actual military service, or any Mariner or Seaman being at sea, may dispose of his Personal Estate as he might have done before the making of this Act.

19.

Act not to affect the Provisions of the 11 Geo. 4, and 1 Will. 4, c. 70, s. 48 to 65, with respect to Wills of Petty Officers and Seamen in the Navy and Non-Commissioned Officers of Marines and Marines.

And be it further Enacted, That this Act shall not prejudice or affect any of the provisions contained in an Act passed in the eleventh year of the reign of his late Majesty King GEORGE the Fourth, and the first year of the reign of His present Majesty, intituled, "An Act to amend and consolidate the Laws relating to the Pay of the Royal Navy," respecting the Wills of Petty Officers and Seamen in the Royal Navy, and Non-commissioned Officers of Marines, and Marines, so far as relates to their Wages, Pay, Prize-money, Bounty-money, and allowances or other monies payable in respect of services in His Majesty's Navy.

20.

Publication not to be requisite.

And be it further Enacted, That every Will executed in manner hereinbefore required, shall be valid without any other publication thereof.

21.

Gifts to an attesting Witness to be void.
25 Geo. 2, c. 6, s. 1.

And be it further Enacted, That if any Person shall attest the execution of any Will to whom any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any Real or Personal Estate (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment, shall, so far only as concerns such Person attesting the execution of such Will, or any Person claiming under him, be utterly null and void, and such Person shall be admitted as a Witness to the execution of such Will within the intent of this Act, notwithstanding such devise, legacy, estate, interest, gift or appointment mentioned in such Will.

22.

Creditor attesting to be admitted a Witness.
25 Geo. 2, c. 6, s. 2.

And be it further Enacted, That in case, by any Will, any Real or Personal Estate shall be charged with any debt or debts, and any Creditor whose debt is so charged shall attest the execution of such Will, every such Creditor, notwithstanding such charge, shall be admitted a Witness to the execution of such Will within the intent of this Act.

23.

Credit of the Witness to be determined by the Court.
25 Geo. 2. c. 6, s. 6.

Provided always, and be it further Enacted, That the credit of every such Witness so attesting the execution of any Will in any of the cases in this Act beforementioned, and all circumstances relating thereto, shall be subject to the consideration and determination of the Court, and the Jury before whom any such Witness shall be examined, or his testimony or attestation made use of, or

of the Court of Equity or of Probate, in which the testimony or attestation of any such Witness shall be made use of, in like manner, to all intents and purposes, as the credit of Witnesses in all other cases ought to be considered of and determined.

24.
No Devisee, where the Devise is made void, being examined to the execution of the Will, shall afterwards take any benefit or compensation for the same. 25 Geo. 2, c 6, s. 7.

And be it further Enacted, That no Person to whom any beneficial Estate, interest, gift or appointment shall be given or made which is hereby enacted to be null and void as aforesaid, and who shall have been examined as a Witness concerning the execution of such Will, shall after he shall have been so examined, demand or take possession of or receive any profits or benefit of or from any such Estate, interest, gift or appointment so given or made to him in or by any such Will or demand, receive or accept from any Person or Persons whomsoever any such Legacy or Bequest, or any satisfaction or compensation for the same in any manner or under any colour or pretence whatsoever.

25.
No Will to be revoked but by another Will or Codicil, or by a Writing executed like a Will, or by cancelling, &c. S. 6. of the Statute of Frauds.

And be it further Enacted, That no Will or Codicil, or any part thereof, shall be revoked otherwise than by another Will or Codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a Will is hereinbefore required to be executed, or by the burning, cancelling, or tearing the same by the Testator, or by some Person in his presence and by his direction, with the intention of revoking the same.

26.
No alteration in a Will shall have any effect, unless executed as a Will; but may be signed and attested in the Margin of the Will, or with a Memorandum.

And be it further Enacted, that no obliteration, interlineation, or other alteration made in any Will after the execution thereof, shall be valid or have any effect unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; but the Will with such alteration as part thereof, shall be duly executed if the signature of the Testator be made and the names of the Witnesses be written by them in the margin, or some other part of the Will opposite or near to such alteration, or at the foot, or end, or opposite, or near, to a Memorandum referring to the alteration, and written at the end, or on some other part, of the Will, or annexed thereto.

27.
A Will not to be revoked by any subsequent conveyance or act.

And be it further Enacted, That no conveyance or other act which shall be made or done by any Testator subsequently to the execution of his Will, of or relating to any Real or Personal Estate or right comprised in his Will, shall operate as a revocation of his Will with respect to such Real or Personal Estate.

28.
Will of a Woman to be revoked by Marriage.

And be it further Enacted, That every Will made by a Woman (except a Will made by a Married Woman in exercise of a power of appointment,

appointment, when some Person other than her heir, executor or administrator, shall be entitled in default of any such appointment), shall be revoked by her Marriage.

29. The Will of a Man not to be revoked by Marriage and the birth of a Child.

And be it further Enacted, That no Will made by a Man shall be revoked by his Marriage and the birth of a Child or Children, or by any presumption of intention on the ground of an alteration in his circumstances.

30. No Will revoked to be revived otherwise than by re-execution or a Codicil to revive it, or by cancelling the Will which revoked it.

And be it further Enacted, That no Will or Codicil which shall be wholly or partly revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive or confirm the same, or by the revocation of a subsequent Will, Codicil, or Writing, by burning, cancelling or tearing, with the intention of revoking the same, and of reviving such prior Will or Codicil; and when any Will or Codicil which shall be partly revoked and afterwards wholly revoked shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown.

31. A Will shall be construed to speak from the death of the Testator.

And be it further Enacted, That every Will shall be construed with reference to the Real Estate, and Personal Estate comprised in it, to speak at the time of the death of the Testator, unless a contrary intention shall appear by the Will.

32. A residuary Devise shall include Estates comprised in lapsed and void Devises.

And be it further Enacted, That unless a contrary intention shall appear by the Will, such Real Estate or interest therein as shall be comprised or intended to be comprised in any devise in such Will contained, which shall fail or be void by reason of the death of the Devisee in the lifetime of the Testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall vest in the person to whom the same Real Estate shall be devised in remainder expectant thereon or charged therewith, or if there shall be no such devise, such Real Estate shall be included in a residuary devise.

33. A general Gift shall include Estates over which the Testator has a general power of appointment.

And be it further Enacted, That a general devise of the Real Estate of the Testator, or of the Real Estate of the Testator in any place or in the occupation of any Person mentioned in his Will, or otherwise described in a general manner, shall be construed to include any Real Estate, or any Real Estate to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will, and in like manner a bequest of the Personal Estate of the Testator, or any bequest of Personal Property described in a general manner,

 shall

shall be construed to include any Personal Estate, or any Personal Estate to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will.

34. A general Devise of the Testator's Lands shall include Leasehold as well as Freehold and Copyhold Lands.

And be it further Enacted, That a devise of all the Real Estate or Lands of the Testator, or of the Real Estate or Lands of the Testator in any place, or in the occupation of any Person mentioned in his Will, or otherwise described in a general manner, shall be construed to include the Leasehold Estates of the Testator, or his Leasehold Estates to which such description shall extend (as the case may be), as well as Real Estates, unless a contrary intention shall appear by the Will.

35. A Devise without any Words of Limitation, shall be construed to pass the Fee.

And be it further Enacted, That where any Real Estate shall be devised to any Person without any words of limitation, such Devise shall be construed to pass the fee-simple, or other the whole Estate or interest of the Testator in such Real Estate, unless a contrary intention shall appear by the Will.

36. The words "die without Issue," or "die without leaving Issue," shall be construed to mean die without Issue living at the death.

And be it further Enacted, That in a gift over after any devise or bequest of Real or Personal Estate to any Person, or the Child or Issue of any Person, the words, "if such Person die without Issue," or "die without leaving Issue," or, "have no Issue," or any other words which may import either a want or failure of Issue of such Person in his lifetime or at the time of his death, or an indefinite failure of his Issue, shall be construed to mean a want or failure of Issue in the lifetime or at the time of the death of such Person, and not an indefinite failure of his Issue, unless by such preceding gift being a limitation of an Estate Tail, or some less estate, to such Issue, or otherwise, a contrary intention shall appear by the Will: Provided, That this Act shall not extend to cases where such words as aforesaid import, if no Issue described in the preceding gift shall be born, or if there shall be no Issue who shall live to attain the age or otherwise answer the description required for obtaining a vested Estate by the preceding gift to such Issue.

37. No devise to Trustees or Executors, except for a term or a presentation to a Church, shall pass a chattel interest.

And be it further Enacted, That no Trustee or Executor shall be construed to take any chattel interest in any Real Estate (other than a next presentation to a Church) under any devise to him as such Trustee or Executor of any such Real Estate, unless a definite term of years, absolute or determinable, shall thereby be given to him expressly or by implication.

38. Trustees under an unlimited devise, where the Trust may

And be it further Enacted, That where any Real Estate shall be devised to a Trustee without any express limitation of the Estate to be

be taken by such Trustee, and the beneficial interest in such Real Estate, or in the surplus rents and profits thereof, shall not be given to any Person for life, or such beneficial interest shall be given to any Person for life, but the purposes of the trust may continue beyond the life of such Person, such devise shall be construed to vest in such Trustee the fee-simple or other the whole legal Estate of the Testator in such Real Estate, and not an Estate determinable when the purposes of the Trust shall be satisfied.

endure beyond the Life of a Person beneficially entitled for life, to take the Fee.

39.
Devises of Estates Tail shall not lapse.

And be it further Enacted, That where any Person to whom any Real Estate shall be devised for an Estate Tail, or an Estate in quasi Entail shall die in the lifetime of the Testator, leaving issue who would be inheritable under such Entail, and any such issue shall be living at the time of the death of the Testator, such devise shall not lapse, but shall take effect as if the death of the Testator had happened before the death of such Person, unless a contrary intention shall appear by the Will.

40.
Gifts to Children, or other Issue who leave Issue living at the Testator's Death, shall not lapse.

And be it further Enacted, That where any Person (being a Child or other issue of the Testator) to whom any Real or Personal Estate shall be devised or bequeathed for any Estate or interest not determinable at or before the death of such Person, shall die in the lifetime of the Testator leaving issue, and any such issue shall be living at the time of the death of the Testator, such devise or bequest shall not lapse, but shall take effect as if the death of the Testator had happened before the death of such Person, unless a contrary intention shall appear by the Will.

41.
Courts of Equity may set aside Wills for Fraud.

And be it further Enacted, That every Court of Equity shall have jurisdiction to make void any Will of Real Estate or Personal Estate, or any part thereof, on the ground of fraud.

42.
The Heir shall not be a necessary Party in Suits in Equity for the execution of a Will, or for the administration of Assets.

And be it further Enacted, That it shall not be necessary to make the Heir of the Testator a Defendant in any Suit in a Court of Equity, for carrying into execution the trusts of the Will or for the administration of the assets of the Testator, nor shall it be necessary to establish the validity of the Will in any such Suit: Provided nevertheless, That no Decree to be made in any such Suit shall be binding on the Heir of the Testator, or any person claiming under him, unless such Heir or Person shall be a party to such Suit.

43.
Depositions shall not be taken in Equity in Suits for establishing Wills, unless required by a Party at the peril of Costs.

And be it further Enacted, That no depositions of Witnesses for proving or invalidating a Will shall be taken in any Court of Equity, in a Suit for establishing such Will, unless any of the Parties to such Suit shall at or before the time at which, according to the practice of such Court, the examination of Witnesses shall be taken in such

Suit, by notice in writing to the Clerk in Court of the other Party, require that such Witnesses against the interest of the Party giving such notice be examined, or declare that the Party giving such notice intends to have Witnesses examined for such purpose on his part; and when any such Witnesses are examined on the part of one Party, the same may be cross-examined on the part of the other Party: and in every case in which such notice shall be given, the costs of the examination of the Witnesses, and of all proceedings relating thereto, shall be the subject of a special order of the Court, independently of the general costs of the Suit.

44. Act not to extend to Wills made before 1836, nor to Assets of persons who die before 1836.

And be it further Enacted, That this Act shall not extend to any Will made before the *First* day of *January One thousand eight hundred and Thirty-six*, nor to any Estate pur autre vie of any Person who shall die before the *First* day of *January One thousand eight hundred and Thirty-six.*

5 WILL. IV.—Sess. 1835.

A

B I L L

FOR

The Amendment of the Laws with respect to Wills.

(Prepared and brought in by Sir John Campbell and Dr. Lushington.)

Ordered, by The House of Commons, *to be Printed,* 4 *March* 1835.

18 *March* 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the Amendment of the Laws with respect to Wills.

[N. B.—*The Clauses marked* (A.) *and* (B.) *were added by the Committee.*]

BE it Enacted, by The KING's most Excellent MAJESTY by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say) the word "Will" shall extend to a Testament and to a Codicil, and to an Appointment by Will or by writing in the nature of a Will in exercise of a Power, and also to a disposition by Will and Testament or devise of the Custody and Tuition of any Child, by virtue of an Act passed in the twelfth year of the reign of King CHARLES the Second, intituled, "An Act for taking away the Court of Wards and Liveries and Tenures in Capite, and by Knights Service and Purveyance, and for settling a Revenue upon his Majesty in lieu thereof," or by virtue of an Act passed in the Parliament of *Ireland*, in the fourteenth and fifteenth years of the reign of King CHARLES the Second, intituled, "An Act for taking away the Court of Wards and Liveries and Tenures in Capite, and by Knights Service," and to any other testamentary disposition; and the words "Real Estate" shall extend to Manors, Advowsons, Messuages, Lands, Tithes, Rents and Hereditaments, whether corporeal or incorporeal, and whether Freehold, Customary Freehold, Tenant Right, Customary or Copyhold, or of any

1.
Meaning of the Words in the Act.

"Will."

"Real Estate."

any other tenure, and to any undivided share thereof, and to any estate, right or interest (other than a chattel interest) therein; and the words "Personal Estate" shall extend to Leasehold Estates and other Chattels Real, and also to Monies, Shares of Government and other Funds, Securities for Money (not being Real Estates), Debts, Choses in Action, Rights, Credits, Goods and all other Personal Property whatsoever, and to any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

"Personal Estate."

"Number."

"Gender."

2.

Repeal of the Statutes of Wills: 32 Hen. 8, c. 1, and 34 & 35 Hen. 8, c. 5.

And be it further Enacted, That an Act passed in the thirty-second year of the reign of King HENRY the Eighth, intituled, "The Act of Wills, Wards and Primer Seisins, whereby a Man may devise two parts of his Land;" and also an Act passed in the thirty-fourth and thirty-fifth years of the reign of the said King HENRY the Eighth, intituled, "The Bill concerning the Explanation of Wills;" and also an Act passed in the Parliament of *Ireland*, in the tenth year of the reign of King CHARLES the First, intituled, "An Act how Lands, Tenements, &c., may be disposed by Will or otherwise, and concerning Wards and Primer Seisins;" and also so much of an Act passed in the twenty-ninth year of the reign of King CHARLES the Second, intituled, "An Act for Prevention of Frauds and Perjuries;" and of an Act passed in the Parliament of *Ireland*, in the seventh year of the reign of King WILLIAM the Third, intituled, "An Act for Prevention of Frauds and Perjuries," as relates to Devises or Bequests of Lands or Tenements, or to the revocation or alteration of any devise in writing of any Lands, Tenements or Hereditaments, or any clause thereof, or to the devise of any Estate pur autre vie, or to any such Estate being assets, or to Nuncupative Wills, or to the repeal altering or changing of any Will in writing, concerning any Goods or Chattels, or Personal Estate, or any clause, devise or bequest therein; and also so much of an Act passed in the fourth and fifth years of the reign of Queen ANNE, intituled, "An Act for the Amendment of the Law and the better Advancement of Justice;" and of an Act passed in the Parliament of *Ireland* in the sixth year of the reign of Queen ANNE, intituled, "An Act for the Amendment of the Law and the better Advancement of Justice," as relates to Witnesses to Nuncupative Wills; and also so much of an Act passed in the fourteenth year of the reign of King GEORGE the Second, intituled, "An Act to amend the Law concerning Common Recoveries, and to explain and amend an Act made in the twenty-ninth year of the reign of King CHARLES the Second, intituled, 'An Act for the Prevention of Frauds and Perjuries,'" as relates to Estates pur autre vie; and also an Act passed in the twenty-fifth year of the reign of King GEORGE the Second, intituled, "An Act

10 Chas. 1, Sess. 2, c. 2. (I.)

Sec. 5, 6, 12, 19, 20, 21 & 22, of the Statute of Frauds. 29 Chas. 2, c. 3.

7 Will. 3, c. 12. (I.)

Sec. 14, of 4 & 5 Anne, c. 16.

6 Anne, c. 10. (I.)

Sec. 9, of 14 Geo. 2, c. 20.

25 Geo. 2, c. 6, (except as to the Colonies;)

Act for avoiding and putting an end to certain Doubts and Questions relating to the Attestation of Wills and Codicils concerning Real Estates in that part of *Great Britain* called *England*, and in his Majesty's Colonies and Plantations in *America*," except so far as relates to His Majesty's Colonies and Plantations in *America*; and also an Act passed in the Parliament of *Ireland* in the same twenty-fifth year of the reign of King GEORGE the Second, intituled, "An Act for the avoiding and putting an end to certain Doubts and Questions relating to the Attestations of Wills and Codicils concerning Real Estates;" and also an Act passed in the fifty-fifth year of the reign of King GEORGE the Third, intituled, "An Act to remove certain Difficulties in the Disposition of Copyhold Estates by Will," shall be and the same are hereby Repealed, except so far as the same Acts or any of them respectively relate to any Wills or Assets to which this Act does not extend.

25 Geo. 2. c. 11. (I.)

and 55 Geo. 3, c. 192.

3.
All Property may be disposed of by Will.

And be it further Enacted, That it shall be lawful for every Person to devise, bequeath, or dispose of, by his Will executed in manner hereinafter required, all such Real Estate, and also all such Personal Estate as he shall be entitled to, either at law or in equity, except any Real Estate to which he shall be entitled for an Estate Tail or an Estate in quasi Entail, and any Real or Personal Estate or share thereof to which he shall be entitled as joint tenant, and which shall survive by his death to some other Person.

Stat. of Wills, 32 Hen. 8, c. 1, s. 1.

except Estates Tail and Estates held in joint Tenancy.

4.
Property acquired after the execution of the Will, may pass by it.

And be it further Enacted, That it shall be lawful for every Person to devise, bequeath, or dispose of, by his Will executed in manner hereinafter required, any such Real Estate and Personal Estate, as hereinbefore are mentioned, (except as aforesaid) to which he may be entitled at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his Will.

5.
Contingent interests may be disposed of by Will.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all contingent and executory and other future interests in any Real Estate or Personal Estate, (except as aforesaid), whether the Testator may or may not be ascertained as the Person or one of the Persons in whom the same may become vested, and whether he may be entitled thereto under the instrument by which the same was created, or under any disposition thereof by Deed or Will: and every Person, to whom any such interest, or any part thereof, may be disposed of by Will, shall be entitled to the same interest, or such part thereof as may be disposed of to him, and to the same actions, suits and remedies for the same, as the Person originally entitled thereto, his heirs, executors or administrators, would have been entitled to, if no disposition thereof had been made: Provided always, That no Person shall be empowered

by this Act to dispose of any expectancy which he may have as heir or heir of the body inheritable to any Real Estate, or as next of kin under the Statutes for the distribution of the Estates of Intestates of a Person entitled to any Personal Estate who shall survive him, or under any Deed which shall not be executed in his lifetime, or under the Will of any Person who shall survive him, (except under any devise or bequest in the Will of his ancestor, which, in pursuance of the provision hereinafter contained, shall not lapse by the death of such Person in the lifetime of such ancestor.)

6.

Rights of Entry may be disposed of by Will.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all such rights of entry for condition broken, and other rights of entry, as would (if this Act had not been made) have become vested in the heir or customary heir, or executor or administrator of the Testator.

7.

Powers of devising to extend to Customary Freeholds and Copyholds, which cannot now be devised.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all Real Estate of the nature of Customary Freehold, or Tenant Right, or Customary, or Copyhold, or of any other tenure, which in consequence of the want of a custom to devise, or to surrender to the use of a Will or otherwise, could not have been disposed of by Will if this Act had not been made; and the Will by which such disposition shall be made shall be enrolled in the Court Rolls, or Manorial Books of the Lord of the Manor or reputed Manor, of which such Real Estate shall be held; and the same fine, heriot, dues, duties and services shall be paid and rendered by the Devisee as would have been due from the customary heir in case of the descent of the same Real Estate, and the Lord shall have the same remedies for recovering and enforcing such fine, heriot, dues, duties and services, as he is entitled to for enforcing and recovering the same against the customary heir in case of a descent.

8.

Customary Freeholds and Copyholds, which might have been surrendered to the use of a Will, may be devised without such surrender. 55 Geo. 3, c. 192, s. 1.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all Real Estate of the nature of Customary Freehold, or Tenant Right, or Customary, or Copyhold, which by the custom of the Manor of which the same is holden, might be surrendered to the use of a Will, notwithstanding that the Testator shall not have surrendered the same to the use of his Will.

9.

Customary Freehold and Copyhold Land may be devised before admittance.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to all Real Estate of the nature of Customary Freehold, or Tenant Right, or Customary, or Copyhold, to which the Testator, as Devisee or otherwise, shall have been entitled to be admitted, notwithstanding that he shall not have been admitted thereto.

Provided

10.

Devisees of Customary and Copyhold Estates, capable of being surrendered to the use of the Will, to pay, where there has been no such surrender, the like Fees as would have been payable on such surrender; and also, where the Testator was entitled to admittance, and was not admitted, and might, after admittance, have surrendered to the use of his Will, the like Fine and Fees as would have been payable on such admittance and surrender. 55 Geo. 3. c. 192, s. 2.

Provided always, and be it further Enacted, That where any Customary Freehold or Tenant Right, or Customary, or Copyhold Real Estate might, by the custom of the Manor of which the same is holden, have been surrendered to the use of a Will, and the Testator shall not have surrendered the same to the use of his Will, no Person entitled or claiming to be entitled to such Real Estate by virtue of such Will, shall be entitled to be admitted to the same Real Estate by virtue thereof, except upon payment of all such Stamp Duties, Fees, and Sums of Money as would have been lawfully due and payable in respect of the surrendering of such Real Estate to the use of the Will, or in respect of presenting, registering, or enrolling such Surrender, if the same Real Estate had been surrendered to the use of the Will of such Testator: Provided also, That where the Testator was entitled to have been admitted to such Real Estate, and might if he had been admitted thereto have surrendered the same to the use of his Will, and shall not have been admitted thereto, and could not without such admitance have devised the same Real Estate if this Act had not been made, no Person entitled or claiming to be entitled to such Real Estate, in consequence of such Will, shall be entitled to be admitted to the same Real Estate by virtue thereof, except on payment of all such Stamp Duties, Fees, Fine, and Sums of Money as would have been lawfully due and payable in respect of the admittance of such Testator to such Real Estate, and also of all such Stamp Duties, Fees, and Sums of Money as would have been lawfully due and payable in respect of surrendering such Real Estate to the use of the Will, or of presenting, registering, or enrolling such Surrender, had the Testator been duly admitted to such Real Estate, and afterwards surrendered the same to the use of his Will: all which Stamp Duties, Fees, Fine, or Sums of Money due as aforesaid, shall be paid in addition to the Stamp Duties, Fees, Fine, or Sums of Money due or payable on the admittance of such Person so entitled or claiming to be entitled to the same Real Estate as aforesaid.

11.

All Estates pur autre vie to be devisable. Statute of Frauds, 29 Cha. 2, c. 3, s. 12.

And be it further Enacted, That the powers of disposition by Will hereinbefore contained, shall extend to an Estate pur autre vie, whether there shall or shall not be any special occupant thereof, and whether the same shall be Freehold or Customary Freehold, Tenant Right, Customary, or Copyhold, or of any other tenure, and whether the same shall be a corporeal or an incorporeal hereditament.

12.

Estates pur autre vie in Freehold to be Assets in the hands of the Heir where special occupant, and where there is no special occupant, or the Executors or Administrators are

And be it further Enacted, That if no disposition by Will shall be made of any Estate pur autre vie of a Freehold nature, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of special occupancy as assets by descent, as in the case of Freehold Land in fee-simple; and in case there shall be no special occupant of any Estate pur autre vie, whether Freehold, or

special occupants, to go to the Executors or Administrators, and be applied like the Personal Estate. 29 Chas. 2, c. 3, s. 12.

Customary Freehold, Tenant Right, Customary, or Copyhold, or of any other tenure, and whether a corporeal or incorporeal hereditament, it shall go to the Executor or Administrator of the Party that had the Estate thereof by virtue of the grant; and if the same shall come to the Executor or Administrator, either by reason of a special occupancy or by virtue of this Act, it shall be assets in his hands, and shall go and be applied and distributed in the same manner as the Personal Estate of the Testator or Intestate. 14 Geo. 2, c. 20, s. 9.

13. No Person under the age of Seventeen to be capable of making a Will.

And be it further Enacted, That any Person being of the age of Seventeen Years may make a Will as well of Real as of Personal Estate, and that no Will made by any Person under that age shall be valid.

14. A feme covert not to be capable of making a Will, except of her separate property, or by virtue of a power, or of personalty with the Husband's consent, or to continue an Executorship.

Provided also, and be it further Enacted, That no Will made by any married Woman shall be valid, except a Will of Real Estate or Personal Estate, to which she may be entitled for her separate use, or an appointment by Will in pursuance of a power of appointment to be exercised by her notwithstanding her coverture, or a Will made with the consent of her Husband of Personal Estate, or a Will for appointing an Executor to a Will of which she shall be the Executrix.

15. No devise to a Corporation to be valid, except when authorized by Act of Parliament. 34 & 35 Hen. 8, c. 5, s. 4.

Provided also, and be it further Enacted, That no Devise or other disposition by Will of any Real Estate to any Body Politic or Corporate shall be valid, unless such Body Politic or Corporate is empowered by any Act of Parliament to acquire Real Estate by devise.

16. Every Will shall be in writing, and signed by the Testator, in the presence of Two Witnesses at one time, who shall subscribe their Names in his presence. Sec. 5. of the Statute of Frauds.

And be it further Enacted, That no Will shall be valid unless it shall be executed in manner hereinafter mentioned; (that is to say) it shall be signed at the foot or end thereof by the Testator, or by some other Person in his presence and by his direction, and such signature shall be made or acknowledged by the Testator in the presence of Two or more Witnesses present at the same time, and such Witnesses shall subscribe their Names to the Will in the presence of the Testator, but no form of attestation shall be necessary.

17. Appointments by Will to be executed like other Wills, and to be valid, although other Solemnities required by the power are not observed.

And be it further Enacted, That no appointment made by Will in exercise of any power shall be valid, unless the same be executed in manner hereinbefore required; and every Will, executed in manner hereinbefore required, shall be a valid execution of a power of appointment by Will, notwithstanding it shall have been expressly required, that a Will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

Provided

18.
Soldiers' & Mariners' Wills excepted.
Sec. 23 of the Statute of Frauds.

Provided always, and be it further Enacted, That any Soldier being in actual military service, or any Mariner or Seaman being at sea, may dispose of his Personal Estate as he might have done before the making of this Act.

19.
Act not to affect the Provisions of the 11 Geo. 4, and 1 Will. 4, c. 70, s. 48 to 65, with respect to Wills of Petty Officers and Seamen in the Navy and Non-Commissioned Officers of Marines, and Marines.

And be it further Enacted, That this Act shall not prejudice or affect any of the provisions contained in an Act passed in the eleventh year of the reign of his late Majesty King GEORGE the Fourth, and the first year of the reign of His present Majesty, intituled, "An Act to amend and consolidate the Laws relating to the Pay of the Royal Navy," respecting the Wills of Petty Officers and Seamen in the Royal Navy, and Non-commissioned Officers of Marines, and Marines, so far as relates to their Wages, Pay, Prize-money, Bounty-money, and allowances or other monies payable in respect of services in His Majesty's Navy.

20.
Publication not to be requisite.

And be it further Enacted, That every Will, executed in manner hereinbefore required, shall be valid without any other publication thereof.

21.
Gifts to an attesting Witness to be void.
25 Geo. 2, c. 6, s. 1.

And be it further Enacted, That if any Person shall attest the execution of any Will to whom or to whose Wife or Husband any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any Real or Personal Estate (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment, shall, so far only as concerns such Person attesting the execution of such Will, or the Wife or Husband of such Person, or any Person claiming under such Person or Wife or Husband, be utterly null and void, and such Person shall be admitted as a Witness to prove the execution of such Will, notwithstanding such devise, legacy, estate, interest, gift or appointment mentioned in such Will.

22.
Creditor attesting to be admitted a Witness.
25 Geo. 2, c. 6, s. 2.

And be it further Enacted, That in case, by any Will, any Real or Personal Estate shall be charged with any debt or debts, and any Creditor or the Wife or Husband of any Creditor whose debt is so charged shall attest the execution of such Will, every such Creditor, notwithstanding such charge, shall be admitted a Witness to prove the execution of such Will.

23.
CLAUSE (A.)
Executor to be admitted a Witness.

And be it further Enacted, That no Person shall, on account of his being an Executor of a Will, be incompetent to be admitted a Witness to prove the execution of such Will, or a Witness to prove the validity or invalidity thereof.

24.
Will of a Man or Woman to be revoked by Marriage.

And be it further Enacted, That every Will made by a Man or Woman shall be revoked by his or her marriage, except a Will made in exercise of a power of appointment, when some Person other than his or her heir, executor or administrator, shall be entitled to the Real or Personal Estate thereby appointed in default of such appointment.

25.
No Will to be revoked by a presumption of intention.

And be it further Enacted, That no Will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

26.
No Will to be wholly revoked but by destruction or marriage, or another Will or Codicil, or by a Writing executed like a Will, or partly revoked, but by such Codicil or Writing or alteration. S. 6. of the Statute of Frauds.

And be it further Enaced, That no Will or Codicil, or any part thereof, shall be wholly revoked, otherwise than by the burning, tearing or otherwise destroying the same by the Testator, or by some Person in his presence and by his direction, with the intention of revoking the same, or by marriage, except as aforesaid, or by another Will or Codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a Will is hereinbefore required to be executed; and no Will or Codicil shall be revoked in part, otherwise than by a Codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a Will is hereby required to be executed, or by an obliteration, interlineation or alteration executed as hereinafter is required.

27.
No alteration in a Will shall have any effect, unless executed as a Will; but may be signed and attested in the Margin of the Will, or with a Memorandum.

And be it further Enacted, that no obliteration, interlineation, or other alteration made in any Will after the execution thereof, shall be valid, or have any effect, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; but the Will with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the Testator be made and the names of the Witnesses be written by them in the margin, or some other part of the Will opposite or near to such alteration, or at the foot, or end, or opposite, or near, to a Memorandum referring to the alteration, and written at the end, or on some other part, of the Will.

28.
No Will revoked to be revived otherwise than by re-execution or a Codicil to revive it, or by destroying the Will which revoked it.

And be it further Enacted, That no Will or Codicil, which shall be revoked by burning, tearing or otherwise destroying the same, shall be revived, otherwise than by the re-execution of a duplicate thereof; and no Will or Codicil, which shall be revoked by marriage, shall be revived, otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and no Will or Codicil, which shall be wholly revoked by another Will or Codicil, or Writing executed as aforesaid, shall be revived, otherwise than by the

the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same, or by the revocation of such subsequent Will, Codicil or Writing, by burning, tearing or otherwise destroying, with the intention of revoking, the same; and when any Will or Codicil shall be partly revoked, the part thereof so revoked shall not be revived, otherwise than by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same, or by the revocation of the Codicil or Writing, by which the same was revoked, by burning, tearing or otherwise destroying, with the intention of revoking, the same, or by an obliteration, interlineation or other alteration executed in manner hereinbefore required; and when any Will or Codicil, which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown.

29.
A Devise not to be rendered inoperative by any subsequent conveyance or act.

And be it further Enacted, That no conveyance or other act made or done subsequently to the execution of a Will, of or relating to any Real or Personal Estate therein comprised, shall prevent the operation of the Will with respect to such Real or Personal Estate, or such estate or interest therein as the Testator shall have power to dispose of, by Will, at the time of his death.

30.
A Will shall be construed to speak from the death of the Testator.

And be it further Enacted, That every Will shall be construed, with reference to the Real Estate and Personal Estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the Testator, unless a contrary intention shall appear by the Will.

31.
A residuary Devise shall include Estates comprised in lapsed and void Devises.

And be it further Enacted, That unless a contrary intention shall appear by the Will, such Real Estate or interest therein as shall be comprised or intended to be comprised in any devise in such Will contained, which shall fail or be void by reason of the death of the Devisee in the lifetime of the Testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such Will.

32.
A general Gift shall include Estates over which the Testator has a general power of appointment.

And be it further Enacted, That a general devise of the Real Estate of the Testator, or of the Real Estate of the Testator in any place or in the occupation of any Person mentioned in his Will, or otherwise described in a general manner, shall be construed to include any Real Estate, or any Real Estate to which such description shall extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will;

and in like manner a bequest of the Personal Estate of the Testator, or any bequest of Personal Property described in a general manner, shall be construed to include any Personal Estate, or any Personal Estate to which such description shall extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will.

33. A general Devise of the Testator's Lands shall include Leasehold as well as Freehold and Copyhold Lands.

And be it further Enacted, That a devise of the Land of the Testator, or of the Land of the Testator in any place, or in the occupation of any Person mentioned in his Will, or otherwise described in a general manner, and any other general devise which would describe a Leasehold Estate, if the Testator had no Real Estate which could be described by it, shall be construed to include the Leasehold Estates of the Testator, or his Leasehold Estates to which such description shall extend (as the case may be), as well as Real Estates, unless a contrary intention shall appear by the Will.

34. A Devise without any Words of Limitation, shall be construed to pass the Fee.

And be it further Enacted, That where any Real Estate shall be devised to any Person without any words of limitation, such Devise shall be construed to pass the fee-simple, or other the whole Estate or interest which the Testator had power to dispose of by Will in such Real Estate, unless a contrary intention shall appear by the Will.

35. The words "die without Issue," or "die without leaving Issue," shall be construed to mean die without Issue living at the death.

And be it further Enacted, That in any devise or bequest of Real or Personal Estate the words, "die without Issue," or "die without leaving Issue," or, "have no Issue," or any other words, which may import a want or failure of Issue of any Person in his lifetime, or at the time of his death, or an indefinite failure of his Issue, shall be construed to mean a want or failure of Issue in the lifetime or at the time of the death of such Person, and not an indefinite failure of his Issue, unless by reason of such Person having a prior Estate Tail, or of a preceding gift being a limitation of an Estate Tail to such Person or Issue, or otherwise a contrary intention shall appear by the Will: Provided, That this Act shall not extend to cases, where such words as aforesaid import, if no Issue described in a preceding gift shall be born, or if there shall be no Issue who shall live to attain the age or otherwise answer the description required for obtaining a vested Estate by a preceding gift to such Issue.

36. No devise to Trustees or Executors, except for a term or a presentation to a Church, shall pass a chattel interest.

And be it further Enacted, That no Trustee or Executor shall be construed to take any chattel interest in any Real Estate (other than a next presentation to a Church) under any devise to him as such Trustee

Trustee or Executor of any such Real Estate, unless a definite term of years, absolute or determinable, shall thereby be given to him expressly or by implication.

37.
Trustees under an unlimited devise, where the Trust may endure beyond the Life of a Person beneficially entitled for life, to take the Fee.

And be it further Enacted, That where any Real Estate shall be devised to a Trustee without any express limitation of the Estate to be taken by such Trustee, and the beneficial interest in such Real Estate, or in the surplus rents and profits thereof, shall not be given to any Person for life, or such beneficial interest shall be given to any Person for life, but the purposes of the trust may continue beyond the life of such Person, such devise shall be construed to vest in such Trustee the fee-simple or other the whole legal Estate which the Testator had power to dispose of by Will in such Real Estate, and not an Estate determinable when the purposes of the Trust shall be satisfied.

38.
Devises of Estates Tail shall not lapse.

And be it further Enacted, That where any Person, to whom any Real Estate shall be devised for an Estate Tail, or an Estate in quasi Entail shall die in the lifetime of the Testator, leaving issue who would be inheritable under such Entail, and any such issue shall be living at the time of the death of the Testator, such devise shall not lapse, but shall take effect as if the death of the Testator had happened before the death of such Person, unless a contrary intention shall appear by the Will.

39.
Gifts to Children, or other Issue who leave Issue living at the Testator's Death, shall not lapse.

And be it further Enacted, That where any Person, being a Child or other issue of the Testator, to whom any Real or Personal Estate shall be devised or bequeathed for any Estate or interest not determinable at or before the death of such Person, shall die in the lifetime of the Testator leaving issue, and any such issue shall be living at the time of the death of the Testator, such devise or bequest shall not lapse, but shall take effect as if the death of the Testator had happened before the death of such Person, unless a contrary intention shall appear by the Will.

40.
The Heir shall not be a necessary Party in Suits in Equity for the execution of a Will, or for the administration of Assets.

And be it further Enacted, That it shall not be necessary to make the Heir of the Testator a Defendant in any Suit in a Court of Equity, for carrying into execution the trusts of the Will or for the administration of the assets of the Testator, nor shall it be necessary to establish the validity of the Will in any such Suit: Provided nevertheless, That no Decree to be made in any such Suit shall be binding on the Heir of the Testator, or any person claiming under him, unless such Heir or Person shall be a party to such Suit.

41.
Depositions shall not be taken in Equity in Suits for establish-

And be it further Enacted, That no depositions of Witnesses for proving or invalidating a Will shall be taken in any Court of Equity,

ing Wills, unless required by a Party at the peril of Costs.

in a Suit for establishing such Will, unless any of the Parties to such Suit shall at or before the time at which, according to the practice of such Court, the examination of Witnesses shall be taken in such Suit, by notice in writing to the Clerk in Court of the other Party, declare that the Party giving such notice intends to have Witnesses examined for such purpose on his part, or require that such Witnesses against the interest of the Party giving such notice shall be examined; and when any such Witnesses are examined on the part of one Party, the same may be cross-examined on the part of the other Party; and in every case in which such notice shall be given, the Costs of the examination of the Witnesses, and of all proceedings relating thereto, shall be the subject of a special order of the Court, independently of the general Costs of the Suit.

42.
Act not to extend to Wills made before 1836, nor to Assets of persons who die before 1836.

And be it further Enacted, That this Act shall not extend to any Will made before the First day of January One thousand eight hundred and Thirty-six, nor to any Estate pur autre vie of any Person who shall die before the First day of January One thousand eight hundred and Thirty-six.

43.
Clause (B.)
Act not to extend to Scotland.

And be it further Enacted, That this Act shall not extend to *Scotland*.

52.

5 Will. IV.—Sess. 1835.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the Amendment of the Laws with respect to Wills.

(Prepared and brought in by Sir John Campbell and Dr. Lushington.)

Ordered, by The House of Commons, to be Printed, 18 *March* 1835.